



City of El Paso, Texas

Title 19:

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Subdivision Regulations

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## **Article 1 – Subdivision Procedures**

### **Section 19.1 - Provisions Applicable to All Platting Procedures**

#### **Section 19.1.1 Authority, Purpose and Applicability**

- (a) **Authority.** The procedures of this Article 1 are authorized under the authority of Texas Local Government Code, Chapter 212 (including Subchapter B) and the City's charter. The provisions of this Article expressly extend to all areas inside the City limits and throughout the City's extraterritorial jurisdiction.
- (b) **Purpose.**
- (1) The provisions of this Chapter are intended to implement standards and requirements provided for herein, and shall be minimum requirements for the platting and developing of subdivisions within the City of El Paso and its extraterritorial jurisdiction, as authorized by State statute.
  - (2) The subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. Through the application of these regulations, the interests of public and private parties are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the requirements in this chapter further the possibility that land will be developed in accordance with existing physical, social, economic and environmental conditions.
  - (3) The provisions of this Chapter are intended to implement the following objectives:
    - a. Promote the development and the utilization of land in a manner that assures an attractive and high quality community environment in accordance with the Comprehensive Plan and the zoning regulations (where applicable) of the City of El Paso;
    - b. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the standards which shall be required;
    - c. Protect the public interest by adopting standards for the location, design, class and type of streets, walkways (sidewalks), trails, alleys, utilities and essential public services;
    - d. Assist orderly, efficient and coordinated development within the City's limits and its extraterritorial jurisdiction;
    - e. Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;

- h. Ensure the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
- i. Provide for compatible relationships between land uses as allowed by the Zoning Code and buildings;
- j. Provide for the circulation of traffic throughout the municipality;
- k. Provide for pedestrian circulation that is appropriate for the various uses of land and buildings;
- l. Prevent pollution of the air, streams, bodies of water, arroyos and aquifers; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
- m. Preserve the natural beauty and topography of the area regulated by this Chapter, and ensure development that is appropriate with regard to these natural features;
- n. Establish adequate and accurate records of land subdivision;
- o. Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its extraterritorial jurisdiction;
- p. Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;
- r. Ensure that each subdivision approved by the City is designed in such a way as to minimize stormwater runoff from the site in accordance with the Drainage Design Manual (DDM) and to minimize flooding potential upstream, downstream and within from such subdivision with the DDM.

**(c) Applicability.**

- (1) The provisions of this Chapter apply to any non-exempt (see Section 19.1.3) division of land, combination of separate land parcels, and/or development of land within the corporate boundaries of the City and within its extraterritorial jurisdiction.
- (2) No permit shall be issued for any building or structure on a property until a plat has been approved and/or filed for record in accordance with this ordinance with the following exceptions:
  - a. Permits for repair or remodeling of an existing structure or for site improvements (parking areas, driveways, etc.) which involve no increase in square footage; or

- b. Demolition permits, or permits for removal of a structure from a parcel or tract.
- (3) No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any part of the parcel before a subdivision is duly recorded with the County clerk as provided within this Chapter.
- (4) The subdivision of any lot or any parcel of land by the use of metes and bounds description, contract of sale, or any other legal instrument, for the purpose of sale, transfer, lease or development is prohibited except as otherwise provided for in this Chapter
- (d) **Subdivision Rules.** The provisions of this Chapter 19, the standards governing water and wastewater facilities applicable to plats, and the technical standards contained in the *City of El Paso Design Standards for Construction (DSC)*, as developed by the City Manager or designee and adopted by resolution by the City Council and as may be amended from time to time, constitute the subdivision rules of the City of El Paso, which apply to applications for plat approval inside City limits and within the City's extraterritorial jurisdiction. The DSC shall be maintained by and be available in the Department of Planning. Other ordinances of the City may also apply to land development and must be complied with.

### Section 19.1.2 Types of Plats Required

- (a) **Plats.** A Final Plat or a Minor Plat shall be submitted and approved prior to any non-exempt land division.
- (b) **Replats.** A Replat and the provisions of Section 19.7 shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property, except as allowed below in Section 19.1.3, Exemptions. In the case of revisions to recorded plats or lots, a minor or amending plat may also be utilized if allowed by State Law in accordance with Sections 19.6 and 19.7.4.

### Section 19.1.3 Exemptions

**Exemptions.** The following land divisions are exempt from the requirements of this article that apply to plats:

- (1) The combining of two or more legally recorded lots into one parcel will not be required to be replatted into one lot provided all lots are permanently joined by a structure or improvements built over the property line(s) in accordance with the zoning ordinance;
- (2) The division of a legally recorded lot into two exact halves and the combining of the halves of the lots with the adjacent lots on each side so as to create two parcels of a lot and a half each shall also be allowed without replatting, provided each lot and half lot is permanently joined by a structure built over

the property line in accordance with the zoning ordinance. The parcel line down the center of the middle lot shall become the new lot line and the side setbacks required by zoning shall be measured from that line, rather than the line that is built over;

- (3) The sale by metes and bounds and subsequent issuance of a permit for improvements upon a portion of a platted commercial lot within a Commercial Unit Development;
- (4) Provided, however, that on those parcels described in 1, 2 and 3 above, no additional right-of-way or public easements must be dedicated, or public utilities or roadways must be constructed;
- (5) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is intended, provided however, that prior to construction of improvements, a plat meeting the requirements of this ordinance shall be completed and recorded;
- (6) Use of existing cemeteries complying with all State and local laws and regulations;
- (7) A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a plat meeting the requirements of this ordinance shall be completed and recorded prior to the issuance of permits;
- (8) Creation of a remainder tract in accordance with Section 19.2.6,, provided such remainder tract is suitable for development in the future and does not make any other tracts un-developable under current City of El Paso ordinances, and provided however, that prior to construction of improvements, a plat meeting the requirements of this ordinance shall be completed and recorded prior to the issuance of permits;
- (9) Any development activity associated with a plat that conforms to the subdivision requirements set forth in this chapter;
- (10) Bona fide agricultural activities; and,
- (11) Construction of agricultural accessory structures and related development activities.

### Section 19.1.4 Time for Decision on Plats and Land Studies

- (a) **Time Period for Action.** All Final, Minor and Amending Plats and Replat applications shall be acted upon within thirty (30) days from the date a submitted application is deemed complete as provided for in Section 19.37.2, unless a written waiver is submitted in accordance with Subsection (b) below. Preliminary Plats and Land Studies are not subject to the 30 day approval limitation since they are preliminary and not suitable for recording, and will be approved, approved subject to conditions or denied within 30 days from the date the application is deemed complete as provided for in Section 19.37.2. An applicant may request in writing an extension to the 30 day approval period to allow additional time to comply with the requirements of this and all other ordinances.
- (b) **Waiver of Right to 30-day Action.**
- (1) Responsible Official. The City Manager or designee shall be the responsible official and the initial decision-maker for a Waiver of Right to 30-Day Action or extension to the 30 day action requirement.
  - (2) Request. An applicant may request in writing a Waiver of Right to 30-day Action in relation to the decision time for Final, Minor, and Amending Plats or Replats suitable for recording of thirty (30) days mandated by State law. The waiver request shall contain a statement of the time for which a waiver is sought. No waiver shall be granted for a period less than the Commission's next regularly scheduled meeting. No waiver is required for Preliminary Plats, Land Studies, construction or engineering drawings or plans, or concept plans since they are not suitable for recording and not covered by the 30 day rule.
  - (3) Received. Waiver and extension requests may be received by the City Manager, or designee prior to or at the City Plan Commission meeting at which action would have to be taken (based on the 30-day requirement in State law) on the Plat application. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the Plat application at such meeting as scheduled.
  - (4) Action. The City Manager or designee shall take action on the Waiver of Right to 30-day Action request within the thirty-day (30-day) period for acting on the Plat. If the waiver is granted, action on the Plat application shall be waived for a certain period of time, consistent with the approved waiver.
  - (5) Appeal of Initial Decision. A decision by the City Manager or designee to deny a Waiver of Right to 30-day Action may be appealed to the City Plan Commission in accordance with Section 19.45 of this Chapter.
  - (6) Requirements Maintained. The granting of a Waiver of Right to 30-day Action request shall not be deemed in any way a waiver to any requirement

within this Chapter. A waiver from requirements herein is a separate and distinct process.

- (c) **Preliminary and Final Plat Application within the Extraterritorial Jurisdiction.** Where the land to be platted lies within the extraterritorial jurisdiction of the City in El Paso County, no Final Plat application shall be accepted as complete in accordance with Section 19.37.2, unless the application also complies with Section 19.11 and its requirements regarding the ETJ.

### Section 19.1.5 Applications and Procedures

**Complete Application.** Where a conflict exists between the procedures listed in this section and any other section of the Chapter, the procedures of this section shall control.

- (1) An application must be complete in order to be accepted for review by the City of El Paso. All applications shall be made on forms available from the City. To be complete, it must comply with all the procedures and requirements of this section and any other sections pertaining specifically to each application. Refer to Section 19.37 of this Chapter and to the administrative submission requirements available in the Planning Department for complete application procedures and requirements.
- (2) Required documentation for the initial application to be considered complete for each review process is listed in (3) through (6) below.
- (3) Preliminary Plat (See Section 19.3 for substantive requirements)
  - a. Application and related documents meeting the requirements in the Preliminary Plat submission check list.
  - b. Application Fee
- (4) Final Plat (See Section 19.4 for substantive requirements)
  - a. Application and related documents meeting the requirements in the Final Plat submission check list.
  - b. Application Fee
  - c. An electronic copy of the Plat in a format acceptable to the City as specified in the DSC.
  - d. Field Notes as specified in the DSC.
  - e. Title Opinion or proof of ownership dated within 30 days of submission.
  - f. Final Subdivision Improvement Plans with all accompanying documentation must be submitted prior to or at the time of submission of the Final Plat.
  - g. Drainage Plans
  - h. Utility Plans, even though provided by another agency.
- (5) Minor Plat (See Section 19.6 for substantive requirements)

- a. Application and related documents meeting the requirements in the Final Plat submission check list.
- b. Application Fee
- c. An electronic copy of the Plat in a format acceptable to the City tied to State Plane Coordinate System or City Monuments as required.
- d. Field Notes as specified in the DSC.
- e. Title Opinion or proof of ownership dated within 30 days of submission.
- f. Drainage Plans

### **Section 19.1.6 Stages of Plat Approval**

(a) **Plats.** A Plat may be approved in three stages:

- (1) Land Study (refer to Section 19.2); if required
- (2) Preliminary Plat (refer to Section 19.3); and
- (3) Final Plat (refer to Section 19.4).

(b) **Combined Applications.** An applicant may submit applications for approval of a Land Study and a Preliminary Plat, or a Preliminary Plat and a Final Plat simultaneously. Such acceptance shall be on a form provided by the Planning Department. The combination plat must meet all requirements of a Final Plat prior to approval by the City Plan Commission. Engineering and Subdivision Improvement Plans must also be submitted and approved in accordance with this ordinance.

(c) **City Manager or designee.** The City Manager, or designee shall be the responsible official for a Plat, and the Staff shall be the initial reviewing body for a Plat application.

- (1) The City Manager, or designee, and/or other City staff at the direction of the City Manager, or designee, shall review all Plat applications for completeness (refer to Section 19.37.2) based on a checklist and the administrative submission requirements supplied by the Planning and Development Services Department.
- (2) The staff shall review all Plat applications that are deemed complete for conformance with this Chapter and any other applicable City regulations.

## **Section 19.2 – Land Studies**

### **Section 19.2.1 Purpose, Applicability, and Effect**

(a) **Purpose and Intent.** The purpose of a Land Study shall be to delineate the sequence and timing of development within a proposed subdivision, where the tract to be developed is part of a larger parcel of land owned or controlled by the applicant, in order to determine compliance with the City's Comprehensive Plan and

the availability and capacity of public improvements needed for the subdivision and the larger parcel. The purpose of the Land Study shall also be:

- (1) To elicit comment from the subdivider and the city technical staff regarding the proposed design of the land for the purpose of expediting subdivision application(s);
- (2) To reduce subdivision design and development costs when a subdivider proposes to phase the development or to develop various land uses;
- (3) To review and approve a general plan for the development of property including the layout of arterial streets, open areas, sites for public facilities, and utilities;
- (4) To determine the availability of existing services to the area, including street improvements, drainage, sewerage, fire protection, schools, parks and other such facilities within one mile abutting the proposed study area.

**(b) Applicability.**

- (1) **When Required.** Prior to submission or concurrently with any subdivision application, the subdivider shall file an application for approval of a Land Study with the City Manager, or designee. A Land Study application shall include all contiguous holdings of the subdivider, including land in common ownership, which is proposed to be developed or subdivided within the meaning of this Chapter. For purposes of this section, a Land Study shall be required in all instances unless the city Manager or designee finds that:
  - a. An approved detailed site development plan or generalized site plan incorporating the proposed development area provides sufficient information for the purposes outlined and the preparation of a plat; or
  - b. A Preliminary Plat is submitted for the entire proposed development area, allowing review of the phasing for the whole property.
  - c. A finding made under this subsection shall be based on a determination by the City Manager, or designee that the alternate plan or plat satisfies the purpose and intent of a Land Study submittal, and that the alternate plan or plat fully contains the information required for submission of a Land Study application. Where changes are made to an approved detailed site development plan, generalized site plan or preliminary plat that is used as a basis for a finding made by the City Manager, or designee, the subdivider shall be required to submit a revised drawing of such approved plan or plat to the City Manager or designee for proper recordkeeping. Failure to provide a revised drawing shall require that any subsequent subdivision application fully conform to the approved detailed site development plan, generalized site plan or preliminary plat on file.

d. A referral by the City Manager or their designee made to the City Plan Commission to determine the applicability of a Land Study submittal, or to appeal a negative finding pursuant to this subsection. The City Plan Commission shall review all reports and recommendations presented by the City Manager or designee and shall make a determination as needed on the applicability provisions, or the appeal as necessary. An action taken by the City Plan Commission shall be binding on all parties.

(2) A Land Study shall be required for any division of land where proposed development of the tract is to occur in phases and is not covered by a preliminary plat or other document listed in (1).b, c and d above. Phasing for the Land Study shall not exceed a time period of five (5) years plus two (2) two year extensions. Provided however, any extension of a Land Study beyond this period by the CPC shall automatically extend the phasing period as well. The applicant shall submit a schedule showing the proposed phasing of development that shall be approved along with the Land Study. If the land subject to the Land Study is part of a larger parcel, the remaining land shall be shown as a remainder tract, but shall not be included within the Land Study.

**(c) Effect.**

(1) Approval of a Land Study authorizes the subdivider to submit a Preliminary Plat application for each phase of development shown on the Land Study, subject to the phasing plan of development approved for the land.

(2) Once a Land Study has been approved, all Plats approved thereafter for the same land shall be consistent with the Land Study for so long as the Land Study remains in effect. Minor variations between the Land Study and the subsequent Plat application(s) shall be permitted; in accordance with Section 19.2.7.

### Section 19.2.2 Application and Procedures

- (a) **Responsible Official.** The City Manager or designee shall be the responsible official for a Land Study.
- (b) **Submittal.** All applications shall be submitted on a form supplied by the Planning and Development Services Department with the required information as stated on the application form.
- (c) **Prior Approved Applications.** An application for a Land Study shall not be approved unless all zoning amendments, including a request for a Zoning Change or a Comprehensive Plan, Thoroughfare Plan or other adopted Plan amendment, which are necessary to authorize the uses or layout proposed on the Land Study have been approved and remain in effect for the land included in the Land Study. An application may be conditionally approved subject to the other required zoning and plan amendment approvals being approved.
- (d) **Accompanying Applications.**
  - (1) An application for a Land Study may be accompanied by an application for rezoning approval provided that the rezoning application shall be decided first. Such Study is not a Final Plat submitted under state statute and is not subject to the 30 day approval limitation.
  - (2) An application for a Land Study may be accompanied by an application for approval of a Preliminary Plat for the first phase of the project, provided that the application for Land Study shall be decided first. The applicant may request simultaneous review, and since both Plats are not Final Plats submitted under state statute they are not subject to the 30 day approval limitation. However, the applicant assumes all responsibility for any problems or issues created by simultaneous submission.
- (e) **General Requirements.** The subdivider shall submit the Land Study application in a number and form that is in accordance with the application form, requirements and checklist as adopted by the City. The Land Study shall be accompanied by a processing fee established by the City Council. The Land Study shall be prepared by an engineer at a scale of one inch equals two hundred feet, except where the City Manager or designee approves a modified scale, on one or more twenty-four inch by thirty-six inch sheets which provides all of the following information:
  - (1) General arrangement of existing and proposed land uses, including but not limited to park and school sites, other public facilities, open space areas, floodplains and drainage ways. The land uses regulated by zoning must comply with both the location and layout as prescribed by the official adopted zoning map and zoning ordinance of the City of El Paso, unless a rezoning is proposed as part of the combined application;

- (2) The proposed density expressed in units per acre and population by land use. The proposed densities shown may not exceed those prescribed by the official adopted zoning map and zoning ordinance of the City of El Paso unless a rezoning is proposed as part of the combined application;
- (3) Proposed phasing of platting;
- (4) The proposed traffic circulation, layout, and width of all collector streets and arterial street classifications. The proposed street layout must comply with the adopted thoroughfare plan for the City of El Paso as to location and size of roadways, unless an amendment to such plans is proposed as part of the combined application;
- (5) Traffic impact/capacity study to determine the capacity need, if any, for additional traffic lanes (e.g. acceleration, deceleration, or turning), signalization and other roadway or traffic mitigation improvements. The traffic impact/capacity study shall be prepared in accordance with standards provided by the City;
- (6) Conceptual drainage plan indicating existing and proposed major stormwater sewer facilities. The drainage plans shall indicate the phasing plans and approximate location of temporary and permanent easements and right-of-ways that will be needed to accommodate the phasing plan and to carry the stormdrainage to its ultimate destination;
- (7) Layout and relationship of the proposed subdivision(s) to surrounding development, including the location, width, and names of all existing and platted streets, subdivisions, public ways, drainage channels, and other relevant features;
- (8) Existing and/or proposed zoning of the property and adjoining land;
- (9) Dimensions of the Land Study boundaries;
- (10) Existing contours of the tract in intervals appropriate to the topography as determined by the City Manager, or designee, in accordance with the DSC and based on National Geodetic Vertical Datum (year to be specified on Land Study);
- (11) Existing major water and sanitary sewer facilities.

### **Section 19.2.3 Decision**

- (a) The City Plan Commission shall decide whether to approve, approve with conditions, or deny the Land Study application. The conditions may relate to, among other matters, compliance with the City's Comprehensive Plan, Zoning Ordinance and the availability and capacity of public improvements.

- (b) Prior to the decision, the CPC shall be provided with a full copy of the land study and all related documents that are needed to make a decision as to compliance with this ordinance.
- (c) Where the City Plan Commission disapproves a land study application, the subdivider may submit a new or revised application for a land study in the manner and with the fees prescribed in these regulations.

#### Section 19.2.4 Criteria for Approval

- (a) **Factors.** The following criteria shall be used to determine whether an application for a Land Study shall be approved, approved with conditions, or denied:
  - (1) The Land Study is consistent with all zoning requirements for the property, and any approved Development Agreement;
  - (2) The proposed provision and configuration of roads, water, wastewater, drainage and park and open space facilities are adequate to serve each phase of the subdivision and generally meet the standards of this Chapter, the DSC and any other applicable standards or requirements of the City;
  - (3) The schedule of development assures that the proposed development will progress to completion within the schedule proposed; and
  - (4) The proposed Land Study conforms to the district and is consistent with the incorporated Concept Plan, if any;
  - (5) The location, size and sequence of the phases of development proposed assures orderly development of the land subject to the Plat;
  - (6) Where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City in El Paso County, the proposed Land Study meets any County of El Paso standards.
  - (7) The Land Study is consistent with the adopted Comprehensive Plan, except where application of the Plan conflicts with state law.
- (b) **Conditions.** In addition to any other conditions required to conform the Land Study to the standards of this Chapter, the City Plan Commission may condition approval on exclusion of land from the Land Study or adjustments in the proposed sequence or timing in the proposed phases of the development.

#### Section 19.2.5 Expiration and Extension

- (a) **Time of Expiration.**
  - (1) Expiration of the Land Study shall be five (5) years. Two extensions may be approved for a period of two (2) years each by the CPC from the date a complete application is officially approved, unless otherwise governed by the schedule of development approved by the City Plan Commission. A land study for property of

one thousand acres or more may be granted additional two year extensions provided that a finding is made by the CPC that from the date that the prior two year extension was granted, substantial progress has been made toward the completion of the development.

- (2) Expiration of a Preliminary Plat or Final Plat for any phase of the Land Study which has expired shall not change the approved phasing plan and all subsequent plats meet the approved plan unless otherwise approved by the CPC.
- (b) **Extension.** The expiration date for any phase of the development may be extended by the City Plan Commission under Section 19.41. Extension of the expiration date for the phase extends the expiration date for the Land Study for a like period.

### Section 19.2.6 Remainder Tracts

- (a) **Definition.** A remainder tract is that portion of a larger parcel that is not included within the boundaries of a Land Study or any type of Plat. Remainder tracts shall not be considered lots or tracts of the subdivision. Approval of a Plat shall not constitute approval of development on a remainder tract.
- (b) **Information.** Information accompanying a Plat application for remainder tracts shall be deemed to be an aid to the City Plan Commission in taking action on the Plat application and may be used to determine whether development of the land subject to the Plat will be adequately served by public facilities and services and is otherwise in compliance with this Chapter, taking into account the development of the property as a whole. Information concerning remainder tracts, including topography, drainage, and existing and planned public improvements, may be considered in formulating conditions to approve the Plat application. Based upon such information, the City Plan Commission may require that additional or less land be included in the Plat in order to satisfy the standards applicable to the Plat application.
- (c) **Approval.** Approval of such remainder tract is conditioned on such remainder tract being suitable for development in the future and not making any other tracts undevelopable under current City of El Paso ordinances.

### Section 19.2.7 Revisions Following Approval of a Land Study

- (a) **Minor Changes.** The City Manager or designee may deem a revision to be minor and may authorize the amendment administratively. An amendment shall be considered minor if the City Manager or designee determines that it does not significantly alter the arrangement of land use, increase density, relocate major

circulation elements, decrease open space areas, or alter the concept of the development.

**(b) Amendments.**

- (1) At any time after approval of a land study and before submission of a final plat for any portion of the area contained within the approved land study, the subdivider may request that an amendment be made in the approval or approval with conditions of the land study.
- (2) An amendment not deemed minor by the City Manager, or designee shall be reviewed and either approved, approved subject to conditions or disapproved by the City Plan Commission, following a staff recommendation, pursuant to the general procedures outlined in this section.
- (3) The amendment to the Land Study shall be submitted with the approved application form, required information and checklists, and fees. It shall be processed in the same time frame and manner as if it were a new Land Study application.
- (4) If a request for amendment to an approved land study occurs after submission of a final plat, the subdivider shall be required to file a new land study application for the entire area contained within the formerly approved land study.
- (5) The revised land study application shall be subject to the subdivision regulations in effect at the time of resubmission, subject to the vesting provisions of this ordinance.

## **Section 19.3 - Preliminary Plats**

### **Section 19.3.1 Purpose, Exceptions and Effect**

- (a) **Purpose.** The purpose of a Preliminary Plat shall be to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable requirements of this Chapter. The City will not require non-engineering related significant changes in the final Subdivision Improvement Plans or Final Plat approval that contradict the Preliminary Plat approval, except it reserves the right to address Life Safety or other significant issues that the design engineer should have addressed in the Preliminary Plat.
- (b) **Exceptions.**
- (1) A Preliminary Plat is not required when a Minor Plat is allowed and submitted (Section 19.6).
  - (2) A Final Plat in accordance with Section 19.4, along with final Subdivision Improvement Plans in accordance with Section 19.8, may be submitted in lieu of a Preliminary Plat. The applicant, however, assumes all liability for costs and time delays created by the applicant not submitting a Preliminary Plat.
- (c) **Effect.** Approval of a Preliminary Plat shall authorize the subdivider to submit Subdivision Improvement Plans for approval by the City Manager, or designee under Section 19.8 and, upon approval of such plans, to construct public improvements to serve the subdivision in accordance therewith. Approval of a Preliminary Plat also shall authorize the subdivider to seek approval of a Final Plat for the land subject to the Preliminary Plat.

### **Section 19.3.2 Application and Procedures**

- (a) **Responsible Official and Initial Review.** The City Manager, or designee shall be the responsible official for a Preliminary Plat, and the Staff shall be the initial reviewing body for a Preliminary Plat application.
- (b) **Pre-Application Conference.** Refer to Section 5 of Section 19.37.
- (c) **Application Contents.** All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form and the administrative submission requirements available in the Planning Department.
- (d) Preliminary engineering information in accordance with the DSC checklists meeting the submission requirements must also be submitted with the Preliminary Plat application.
- (e) **Accompanying Applications.** An application for a Preliminary Plat may be accompanied by an application for rezoning approval, including a request for a Planned Development District, or a Land Study application. The rezoning application and Land Study application shall be decided first, or the Preliminary Plat shall be

approved subject to their approvals. Such Plat is not a Final Plat submitted under state statute and is not subject to the 30 day approval limitation but action in accordance with this ordinance will be taken on the Preliminary Plat within 30 days.

- (f) **Staff Review.** The staff shall review each Preliminary Plat application to be placed on the agenda of the forthcoming meeting of the City Plan Commission. The staff shall recommend either:
- (1) Approval of the Preliminary Plat;
  - (2) Denial of the Preliminary Plat; or
  - (3) Approval of the Preliminary Plat with conditions.
  - (4) Approval of the Preliminary Plat with recommendations regarding any exceptions provided for in this ordinance.
- (h) **Re-Submittal Following Staff Review.**
- (1) The applicant shall retain in his/her possession a copy of the original Preliminary Plat that was submitted for review by the staff.
  - (2) At least eight (8) days prior to the meeting of the City Plan Commission during which the Preliminary Plat is scheduled for action, the applicant shall provide to the City Manager or designee copies of the Preliminary Plat meeting the submission requirements. The City Manager or designee shall then review the Preliminary Plat for compliance with staff recommendations.

### Section 19.3.3 Decision

- (a) **Review and Determination.** The City Plan Commission shall review all Preliminary Plat applications, findings of the staff, findings of the City Manager, or designee regarding compliance with staff recommendations, and any other information available. From all such information, the Commission shall determine whether the Preliminary Plat as shown on the application meets the standards of this Chapter.
- (b) **Approval or Denial.** The City Plan Commission shall decide whether to approve, approve with conditions, or deny the Preliminary Plat application within 30 days from determination that the application is complete in accordance with Section 19.37.2. The action of the Commission shall be entered in the minutes of the Commission and the applicant shall be notified of the results.
- (1) All changes or conditions required by the City Plan Commission as part of the Preliminary Plat approval shall be made a part of the record and any Final Plat or final Subdivision Improvement Plans shall meet those required changes or conditions.
  - (2) On a Preliminary Plat with significant changes, the CPC may at the time a Preliminary Plat is approved subject to conditions, require a revised Preliminary Plat to be resubmitted, with no additional fees, that meets the requirements

and conditions of their approval. Such revised Plat is to be submitted 5 days prior to the next available CPC meeting and reviewed and approved by the CPC, making sure all conditions of approval have been met.

- (3) Following denial of a Preliminary Plat application, the applicant may resubmit a revised Preliminary Plat application for approval by the City Plan Commission, provided that the revised application is approved prior to the original expiration date of any approved Land Study for the same land and provided that reapplication fees are paid in accordance with the adopted fee schedule.

### Section 19.3.4 Criteria for Approval

The following criteria shall be used to determine whether the application for a Preliminary Plat shall be approved, approved with conditions, or denied:

- (1) The Preliminary Plat is consistent with any zoning requirements for the property, and any approved Development Agreement, or is approved subject to any proposed zoning submitted concurrently;
- (2) The Preliminary Plat conforms to the general layout of the approved Land Study (with minor variations as described in Section 19.2), including any phasing plan approved therein;
- (3) The proposed provision and configuration of roads, drainage and other facilities conform to the City's adopted master plans for those facilities, including without limitation, transportation, drainage, and any other municipal plans;
- (4) The proposed provision and configuration of roads, drainage, park and open space facilities, easements, and rights-of-way are adequate to serve the subdivision and meet applicable standards of this Section.;
- (5) The Preliminary Plat meets any County of El Paso standards in accordance with Section 19.11, when the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the County;
- (6) The Preliminary Plat has been duly reviewed by applicable City staff, including the City Manager, or designee;
- (7) The Preliminary Plat conforms to the design requirements and construction standards as set forth in the *City of El Paso Design Standards for Construction* (DSC); and
- (8) The Preliminary Plat is consistent with the adopted Comprehensive Plan, except where application of the Plan conflicts with State law (e.g., land use).
- (9)-The Preliminary Plat is consistent with the Parks and Open Space Plan and the proposed provision of parks and open space and/or fees in lieu of dedication is in conformance to this and all other ordinances.

- (10) The Preliminary Plat complies with any exceptions approved by the CPC or any exceptions approved by the City Council involving creating a future expenditure of money by the City.

### **Section 19.3.5 Effect of Approval of a Preliminary Plat**

- (a) **Right to Proceed.** The approval of a Preliminary Plat application shall allow the applicant to proceed with the development and platting process by submitting Subdivision Improvement Plans and a Final Plat. The City will not require non-engineering related significant changes in the final Subdivision Improvement Plans or Final Plat approval that contradict the Preliminary Plat approval, reserving the right to address Life Safety or other significant issues that the City, the design engineer or other consultants working on behalf of the developer should have addressed in the Preliminary Plat.
- (b) **Installation of Subdivision Improvements.**
- (1) Approval of the Preliminary Plat by the City Plan Commission shall be deemed an approval of the layout illustrated on the Preliminary Plat as a guide to the installation of streets, water, wastewater, parks, open space, drainage infrastructure and other improvements that are planned or required within the proposed subdivision.
  - (2) Approval of the Preliminary Plat shall not constitute approval of the proposed subdivision, nor shall approval of the Preliminary Plat be construed to mean acceptance by the public of the dedication of any roads, utilities, parks, open space, drainage ways, or other such land and improvements.
  - (3) Construction of all subdivision improvements shall be based upon approved Subdivision Improvement Plans, and shall occur either:
    - a. Prior to Final Plat approval and recordation but after the Preliminary Plat and all Subdivision Improvement Plans for public improvements have been approved, or
    - b. Following Final Plat and Subdivision Improvement Plan approval but prior to recordation. If improvements are delayed beyond two years of the date of final plat approval, the developer must file security required in Section 19.8.4 or issuance of building permits; or
    - c. Following Final Plat approval and recordation and the release of building permits. Prior to the issuance of more than 50% of the permits or prior to a request for a certificate of occupancy, the developer must submit required security in lieu of completing construction, in accordance with Section 19.8.4 of this ordinance.

### Section 19.3.6 Expiration and Extension

The approval of a Preliminary Plat application shall remain in effect for a period of two (2) years from the date of approval by the City Plan Commission, during which period the applicant shall submit and receive approval for Subdivision Improvement Plans and a Final Plat for the land subject to the Preliminary Plat. If Subdivision Improvement Plans and a Final Plat application have not been approved within the two (2)-year period, the Preliminary Plat application, unless extended in accordance with Section 19.41, shall expire and the Preliminary Plat shall be null and void.

### Section 19.3.7 Revisions Following Approval of Preliminary Plat

- (a) **Submission Allowed.** Following the approval of a Preliminary Plat application, the applicant may resubmit a revised Preliminary Plat along with a resubmission fee in accordance with the adopted fee schedule.
- (b) **Minor Changes.** Minor changes in the design of the subdivision subject to a Preliminary Plat may be incorporated in an application for approval of a Final Plat without the necessity for submittal of a new application for approval of a Preliminary Plat. Minor changes may include minor adjustments in street or alley alignments, lengths, and paving details; addition or exception of utility easements; adjustment of lot lines and similar minor changes that do not result in creation of additional lots, provided that such changes are consistent with any approved prior applications.
- (c) **Amendments.** All other proposed changes to the design of the subdivision subject to an approved Preliminary Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat before approval of a Combination or Final Plat. Approval of major revisions to an approved Preliminary Plat shall occur prior to the date any approved Land Study would have expired for the same land.
- (d) **Determination.** The City Manager or designee shall make a determination of whether changes are deemed to be minor within 10 days or shall require new submittal of a Preliminary Plat.

## **Section 19.4 - Final Plat**

### **Section 19.4.1 Purpose, Applicability, Exceptions and Effect**

- (a) **Purpose.** The purpose of a Final Plat is to assure that the subdivision of the land subject to the Plat is consistent with all standards of this Chapter pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the Plat to be recorded, to assure that the subdivision meets all other standards of this Chapter and to enable initiation of site preparation activities for any lot or tract subject to the Final Plat. The City will not require non-engineering related significant changes in the final Subdivision Improvement Plans or Final Plat approval that contradict the Preliminary Plat approval, reserving the right to address Life Safety or other significant issues that should have been addressed in the Preliminary Plat.
- (b) **Applicability.** Construction of public improvements may occur prior to Final Plat approval if the requirements in Section 19.8 are met. Prior to submission of the Final Plat application for approval, the final Subdivision Improvement Plans, including water and wastewater plans, even though provided by another design agency, other public utilities and storm drainage, must be submitted to the Development Services office. In order to construct public improvements prior to approval of the Final Plat, such plans, except water and wastewater when part of the EPWU or other water or wastewater system, must be reviewed and approved by the City Manager, or designee. The City Manager or designee may recommend that a Final Plat be approved subject to corrections being made to the final Subdivision Improvement Plans.
- (c) **Effect.** Approval of a Final Plat shall authorize the subdivider to install any improvements in public rights-of-way with approved Subdivision Improvement Plans and to seek approval of site preparation, building and other permits for any lot in the subdivision. Approval also authorizes the recordation of the Final Plat in accordance with this ordinance.

### **Section 19.4.2 Application and Procedures**

- (a) **Responsible Official.** The City Manager, or designee shall be the responsible official for a Final Plat, and the Staff shall be the initial reviewing body for a Final Plat application.
- (b) **Pre-Application Conference.** Refer to Section 19.37.5.
- (c) **Prior Approved Preliminary Plat.** The Final Plat and all accompanying data shall conform to the Preliminary Plat as approved by the City Plan Commission, incorporating all approved exceptions and conditions. The Final Plat shall be prepared by a Registered Professional Land Surveyor.

- (e) **Proof of Ownership.** The applicant shall furnish with the application to the City a current title commitment issued by a title insurance company authorized to do business in Texas policy, a title opinion letter from an attorney licensed to practice in Texas or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the Plat. The Final Plat shall be signed (on the face of the Plat in plain view) by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Plat. Such consent shall be subject to review and approval by the City Attorney.
- (f) **Application Contents.** All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form and the administrative submission requirements available in the Planning Department.
- (g) **Staff Review.**
- (1) The Staff shall review each Final Plat application to be placed on the agenda of the forthcoming meeting of the City Plan Commission. Staff shall recommend either:
    - a. Approval of the Final Plat;
    - b. Denial of the Final Plat; or
    - c. Approval of the Final Plat with conditions.
  - (2) For a recommendation of approval, the Staff must make only a finding that the Final Plat meets all standards set forth in this Chapter, although the Staff may make such additional findings as it deems appropriate. In case of a recommendation for denial or approval with conditions, the Staff shall make specific findings of the reasons for denial or the imposition of conditions and shall cite the standards in this Chapter which would be violated if the Final Plat were approved unconditionally.
- (h) **Re-Submittal Following Staff Review.**
- (1) The applicant shall retain in his/her possession the original Final Plat that was submitted for review by the Staff.
  - (2) At least eight (8) days prior to the meeting of the City Plan Commission during which the Final Plat is scheduled for review, the applicant shall provide to the City Manager, or designee a copy meeting submission requirements of the Final Plat, with revisions made based on Staff comments and recommendations. The City Manager or designee shall then review the Final Plat for compliance with Staff recommendations.

### Section 19.4.3 Decision

- (a) **Review and Determination.** The City Plan Commission shall review all Final Plat applications, findings of the Staff, findings of the City Manager, or designee regarding compliance with Staff recommendations, and any other information available. From all such information, the Commission shall determine whether the Final Plat as shown on the application meets the standards of this Chapter.
- (b) **Approval or Denial.** The City Plan Commission shall decide whether to approve, approve with conditions, or deny the Final Plat application. Upon approval of the Final Plat, the applicant shall correct and submit Final Plat copies to the City Manager or designee so that required signatures can be obtained and recording completed. If any conditions are attached to the Commission's approval, the Final Plat copies shall be so corrected prior to signature by any City official. The reasons for any action taken by the Commission, whether a Final Plat is approved, denied, or approved with conditions, shall be entered in the minutes of the Commission.
- (c) **Resubmission Following Denial.** Following denial of a Final Plat application, the applicant may resubmit a revised Final Plat application, for approval by the City Plan Commission, provided that the revised application is approved prior to the original expiration date of any approved Land Study or Preliminary Plat for the same land, any revised Final Subdivision Improvement Plans are provided to staff, and provided that reapplication fees are paid in accordance with the adopted fee schedule.

### Section 19.4.4 Criteria for Approval

The following criteria shall be used to determine whether the application for a Final Plat shall be approved, approved with conditions or denied:

- (1) The final Subdivision Improvement Plans have been submitted and reviewed by the City Manager, or designee. The Final Plat approval shall note:
- a. Subdivision Improvement Plans are complete and approved by staff.
  - b. Subdivision Improvement Plans are complete and approved by staff subject to revisions.
  - c. Subdivision Improvement Plans are still being reviewed by staff and revised by the subdivider and the final plat's approval is still subject to the City Manager or their designee's determination of the Subdivision Improvement Plan's compliance with this and all other City ordinances and the City Manager, or designee's approval of the Subdivision Improvement Plans prior to submission of the Final Plat or issuance of building permits. Questions of interpretation of the ordinance or resolution of significant engineering issues shall be decided and included in the CPC's conditions.
- (2) Prior Approved Preliminary Plat:
- a. The Final Plat conforms to the approved Preliminary Plat except for minor changes authorized under Sections 19.3 or 19.4 of this Article and that may

be approved without the necessity of revising the approved Preliminary Plat;

- b. All conditions imposed at the time of approval of the Preliminary Plat have been satisfied;
- c. Where public improvements have been installed, the improvements conform to the approved Subdivision Improvement Plans and have been approved for acceptance by the City Manager, or designee.
- d. Where the City Manager or designee has authorized public improvements to be deferred, the final plat may be approved, recorded and foundation or building permits may be issued, in accordance with Section 19.8.4;
- e. The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Chapter and all other applicable City ordinances;
- f. The Final Plat where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the County meets the requirements in Section 19.11. The Subdivider or their authorized representative will be responsible for making sure the Final Plan meets the County of El Paso *standards and is approved by the County*.
- g. The Plat conforms to design requirements and construction standards as set forth in the *City of El Paso Design Standards for Construction (DSC)* and,
- h. The Plat conforms to the subdivision application checklist and has been determined to be a complete application.

(3) No Prior Approved Preliminary Plat:

- a. The Final Plat conforms to all criteria for approval of a Preliminary Plat;
- b. The Subdivision Improvement Plans conform to the requirements of this and all other ordinances;
- c. Where the City Manager or designee has authorized public improvements to be deferred, the final plat may be approved, recorded and foundation or building permits may be issued, in accordance with Section 19.8.4;
- d. The final layout of the subdivision or developments meets all standards for adequacy of public facilities contained in Article 2 of this Chapter;
- e. The Final Plat where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the County meets the requirements in Section 19.11. The Subdivider or their authorized representative will be responsible for making sure the Final Plan meets the County of El Paso standards and is approved by the County.
- f. The Final Plat conforms to the application checklist.

### Section 19.4.5 Revisions to Final Plat

- (a) **Following Approval or Conditional Approval.** An applicant may apply for modification of an approved or conditionally approved Final Plat to reflect changes listed below, provided that the approved Final Plat has not been recorded and that approval of the modified Final Plat occurs prior to expiration of approval of the initial Final Plat application.
- (1) Minor changes arising from the installation of public improvements after plat approval including easement additions and adjustments may be approved by the City Manager, or designee.
  - (2) Minor changes including street name and addressing changes, dimension changes that do not substantially affect the street or lot layout or other similar minor changes and meet the requirements of this ordinance may be approved by the City Manager, or designee.
  - (3) Major revisions on Final Plats prior to recordation including those that substantially affect the street or lot layout shall be resubmitted as an amended Final Plat and will require re-approval by the CPC within the time frames prescribed by this Chapter.
  - (4) If the approved Final Plat has been recorded, revisions may only be approved under Section 19.7, Revisions to Recorded Plats (Replatting) or Amending Plats, of this Article.
- (b) **After Denial.** Following denial of a Final Plat or Amending Plat application, the applicant may submit a revised Final Plat or Amending Plat application, together with any revised Subdivision Improvement Plans with a resubmission fee in accordance with the adopted fee schedule, for consideration by the City Plan Commission, provided that the revised application is approved prior to the original expiration date of any approved Preliminary Plat for the same land.

### Section 19.4.6 Expiration and Extension

The approval of a Final Plat shall remain in effect for a period of two (2) years from the date of approval by the City Plan Commission, during which period the applicant shall submit any required revisions for approval and record the Plat. If the Final Plat has not been recorded within the two year (2-year) period, the Final Plat approval, unless extended in accordance with Section 19.41, shall expire and the applicable Plat shall be deemed null and void.

### Section 19.4.7 Plat Recordation

(a) **Procedure.**

- (1) Signatures. After approval of the Final Plat, the City Manager, or designee shall procure the signature of the Chairperson of the City Plan Commission on the Final Plat ready for recording, as well as the signature of the Secretary of the City Plan Commission who shall attest to the signature of the Chairperson.
- (2) Recording Upon Performance. The City Manager or designee shall cause the Final Plat to be recorded with the appropriate County Clerk upon the subdivider's or developer's performance of one of the following:
  - a. Completion of the construction of required improvements prior to recordation; or
  - b. Where the City Manager or designee has authorized public improvements to be deferred, the final plat may be approved, recorded and foundation or building permits may be issued in accordance with Section 19.8.4.
  - c. Regardless of which option, (1) or (2) above, is chosen, Subdivision Improvement Plans must be approved or conditionally approved in accordance with this Section and Section 19.8.1 prior to Plat recordation.

(b) **Timing of Recordation.** The final signed copies of the Plats for recordation will be recorded within 10 days of the date that staff:

- (1) Received the final, approved, corrected recordation plat; and
- (2) Received all fees, certificates and required documents for recording; and
- (3) Determines that all other recording requirements have been met.
- (4) Provided that the plat may be held for recordation until a date agreed upon with the subdivider if the final signed copies of the Plats for recordation meeting the requirements of this ordinance have been delivered to the City and all other recording requirements have been met.

(c) **Submittal of Record Plat Where Improvements Have Been Installed.**

Where public improvements have been installed and approved for acceptance by the City prior to recording of the Plat, the property owner, developer or contractor shall submit a maintenance bond in accordance with Section 19.8 of this Article from each contractor, one sealed set of "as built" plans in accordance with the DSC or record drawings (submitted as mylars), and an electronic copy of all plans (in a format as determined by the City Manager, or designee), together with a letter stating the contractors' compliance with Section 19.8 of this Article, and bearing sealed certification by an engineer that all public improvements have been constructed in compliance with all City construction standards. The property owner also shall submit copies of the approved Final Plat, revised to reflect the "as built" plans or record drawings, in the format and number as required by the City Manager, or designee.

(d) **Submittal of Record Plat Where Improvements Have Not Been Installed.**

Where public improvements have yet to be completed in connection with an approved Final Plat, the property owner shall submit in the format and number as set forth in the DSC, the approved Final Plat, revised to reflect any changes required by the City Plan Commission.

- (e) **Update of Owner Consents.** If there has been any change in the ownership prior to recordation of the approved Final Plat, the applicant shall furnish to the City an updated title policy commitment issued by a title insurance company authorized to do business in Texas, a title opinion letter from an attorney licensed to practice in Texas or some other proof of ownership, identifying all persons having an interest in the property subject to the Plat. If there has been any change in the owners since the time of the owner consent agreement provided under Section 19.4.2, the Final Plat shall be signed (on the face of the Plat in plain view) by each owner as of the date of submission, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the Plat. Such consent shall be subject to review and approval by the City Attorney. .

## **Section 19.5: Reserved**

## **Section 19.6 - Minor Plats**

### **Section 19.6.1 Purpose, Applicability and Effect**

- (a) **Purpose.** The purpose of a Minor Plat is to simplify divisions of land under certain circumstances outlined in State law.
- (b) **Applicability.** An application for approval of a Minor Plat may be filed only when all of the following conditions are met:
  - (1) The proposed division results in four (4) or fewer lots;
  - (2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the requirements of this Chapter or any other ordinance; and
  - (3) The Plat does not require the extension of any municipal facilities to serve any lot within the subdivision, however, right-of-way widening and easements shall be permitted as part of a Minor Plat.
- (c) **Effect.** Approval of a Minor Plat authorizes the applicant to submit an application for site preparation, building and other permits for any lot in the subdivision.

### **Section 19.6.2 Application and Procedures**

- (a) **Responsible Official.** The City Manager, or designee, shall be the responsible official for a Minor Plat.
- (b) **Application Contents.** All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form and the administrative submission requirements available in the Planning Department. The Minor Plat document shall be prepared by a Registered Professional Land Surveyor.
- (c) **Pre-Application Conference.** Prior to the official submission of a Minor Plat application, the applicant(s) may request a pre-application conference with the City Manager, or designee and any other pertinent City official(s). Such conference is optional, and before it is convened a vested rights waiver shall be submitted in accordance with Section 19.37.5.
- (d) **Accompanying Applications.** An application for approval of a Minor Plat may be accompanied by an application for approval of a site preparation, building and other permits for the land subject to the Plat, provided that the Minor Plat shall be decided prior to decision on any Permit.

### Section 19.6.3 Decision

- (a) **Final Approval.** The City Manager, or designee, is authorized to approve a Minor Plat provided such Plat meets all requirements of this ordinance. Each Minor Plat must be approved, approved subject to conditions or denied within 30 days of a finding of completeness unless the owner of the property provides a Waiver of Right to 30-day Action. Review, approval, and recording of Minor Plats shall be in accordance with procedures set forth for Final Plats in Section 19.4 of this Article. Appeal of the City Manager or designee's decision shall be to the City Plan Commission at the next available meeting. The Commission may approve, approve with conditions or deny such appeal based on its findings concerning meeting the requirements of this ordinance.
- (b) **Deemed Approved.** If the City Manager, or designee fails to act on a Minor Plat application within thirty (30) days, the Minor Plat application shall be deemed approved.

### Section 19.6.4 Criteria for Approval

The City Manager, or designee, shall approve, conditionally approve or deny the Minor Plat application based upon the following criteria:

- (1) The Minor Plat is consistent with all zoning requirements for the property, all other requirements of this Chapter that apply to the Plat, all City ordinances and any approved Development Agreement;
- (2) All lots to be created by the Plat already are adequately served by all required City utilities and services;
- (3) The ownership, maintenance, and allowed uses of all designated easements have been stated on the Minor Plat; and
- (3) The Plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

### Section 19.6.5 Expiration

The approval of a Minor Plat application shall remain in effect for a period of two (2) years from the date of approval by the City Plan Commission with the City. If the Minor Plat has not been recorded within the two-year (2-year) period, the Minor Plat approval, unless extended in accordance with Section 19.41, shall expire and the applicable Plat shall be deemed null and void.

### Section 19.6.6 Recordation

The property owner shall submit the approved Minor Plat, incorporating any required revisions, to the City Manager, or designee, who shall cause the Minor Plat to be recorded in the property records of the County.

## **Section 19.7 - Revisions to Recorded Plats**

### **Section 19.7.1 General Requirements for Plat Revisions**

#### **(a) Applicability and Terminology.**

- (1) The procedures in this Section shall apply only if a property owner seeks to change any portion of a Plat that has been filed of record with the County including a note or restriction on the face of the plat. If a property owner files an amending plat or a minor plat to make such changes, and does not violate the notice provisions for replats contained in Texas statutes and in this Section, a replat is not required.
- (2) The term "replat" includes changes to a recorded Plat, restriction or covenant, whether the change is effected by vacating the recorded Plat and approval of a new Plat application, replatting without vacation, or approving an amended Plat.

**(b) City Action Required for Replats.** Except as expressly stated otherwise in this Section, any change to a recorded Plat or a portion of a plat that has been filed for record including a note or restriction shown on the face of a plat shall be subject to approval by the City Plan Commission. The requirements and procedures for approval of such changes to a recorded Plat shall be in accordance with the requirements and procedures for a Final Plat application under Section 19.4 of this Article. A replat of 4 or fewer lots may be administratively approved as if it were a Minor Plat, in accordance with Section 19.6 provided public hearings and notice are not required.

**(c) Construction Management.** If a Replat requires construction of additional improvements, the provisions of Section 19.8 of this Article shall apply.

### **Section 19.7.2 Replats Without Vacation**

**(a) Applicability.** A Replat of all or a portion of a recorded Plat may be approved without vacation of the recorded Plat, if:

- (1) The Replat is signed and acknowledged by only the owners of the property being replatted; and
- (2) Is approved after a public hearing on the Replat;
- (3) The Replat does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded Plat.

**(b) Notice and Hearing.** Published notice of the public hearing on the Replat application shall be given in accordance with Section 19.38. The hearing shall be conducted by the City Plan Commission in accordance with Section 19.39.

- (c) **Application.** The application for a Replat of a subdivision shall meet all application requirements of a Final Plat.
- (d) **Partial Replat Application.** Any Replat which adds or reduces lots must include the original subdivision and lot boundaries. If a Replat is submitted for only a portion of a previously platted subdivision, the Replat must reference the previous subdivision name and recording information, and must state on the Replat the specific lots which have changed along with a detailed "Purpose for Replat" statement.
- (e) **Criteria for Approval.** The Replat of the subdivision shall meet all review and approval criteria for a Final Plat. The Replat document shall be prepared by a Registered Professional Land Surveyor.
- (f) **Effect.** Upon approval of the application, the Replat may be recorded and is controlling over the previously recorded Plat for the portion replatted.

### Section 19.7.3 Special Replat Requirements

- (a) **Applicability.** In addition to compliance with the requirements of Section 19.7.2 above, a Replat without vacation of the preceding Plat must conform to the requirements of this section if:
  - (1) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
  - (2) Any lot in the preceding Plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
- (b) **Exception.** The requirements of this section shall not apply to any approval of a Replat application for a portion of a recorded Plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single- or two-family residential usage. Such designation must be noted on the recorded Plat or in the legally recorded restriction applicable to such Plat.
- (c) **Notice and Hearing.** Published and personal notice of the public hearing on the Replat application shall be given in accordance with Section 19.38. Personal notice shall be accompanied by a copy of the language of subsection (d) below. The hearing shall be conducted by the City Plan Commission in accordance with Section 19.39.
- (d) **Protest.** If the Replat application is accompanied by a variance petition and is protested in accordance with this Subsection, approval of the Replat shall require the affirmative vote of at least three-fourths of the members of the City Plan Commission present at the meeting. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the Replat application and extending two hundred feet (200') from that area, but within the original subdivision, must be filed

with the Commission prior to the close of the public hearing. In computing the percentage of land area under this section, the area of streets and alleys shall be included.

### Section 19.7.4 Amending Plats

- (a) **Purpose.** The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a recorded Plat consistent with provisions of State law.
- (b) **Applicability.** The procedures for Amending Plats shall apply only if the sole purpose of the Amending Plat is to achieve the following:
- (1) Correct an error in a course or distance shown on the preceding Plat;
  - (2) Add a course or distance that was omitted on the preceding Plat;
  - (3) Correct an error in a real property description shown on the preceding Plat;
  - (4) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
  - (5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding Plat;
  - (6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving Plats, including lot numbers, acreage, street names, addresses and identification of adjacent recorded Plats;
  - (7) Correct an error in courses and distances of lot lines between two adjacent lots;
  - (8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
  - (9) Relocate one or more lot lines between one or more adjacent lots;
  - (10) Make necessary changes to the preceding Plat to create four (4) or fewer lots in the subdivision or a part of the subdivision covered by the preceding Plat; or
  - (11) Replat one or more lots fronting on an existing street.
- (c) **Effect.** Upon approval by the City Manager, or designee, an Amending Plat may be recorded and is controlling over the recorded Plat without vacation of that Plat.
- (d) **Application Contents.** All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form. The Amending Plat document shall be prepared by a Registered Professional Land Surveyor.

- (e) **Decision.** The City Manager or designee shall either approve, approve with conditions, or deny the application for an Amending Plat within 10 days.
- (f) **Criteria for Approval.** The City Manager or designee shall decide whether to approve, conditionally approve or deny the Amending Plat application based upon the following criteria:
- (1) The Amending Plat makes only those changes to the recorded Plat that are allowed under Subsection (b);
  - (2) If a correction in courses and distances of lot lines between two adjacent lots is proposed:
    - a. Both lot owners join in the application for amending the Plat;
    - b. Neither lot is abolished;
    - c. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
    - d. The amendment does not have a material adverse effect on the property rights of the owners in the Plat.
  - (3) If relocation of one or more lot lines between one or more adjacent lots is proposed:
    - a. The owners of all those lots join in the application for amending the Plat;
    - b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
    - c. The amendment does not increase the number of lots.
  - (4) If six (6) or fewer lots are proposed to be added to a subdivision:
    - a. The changes do not affect compliance with applicable zoning and other regulations of the City;
    - b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
    - c. The area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area.
  - (5) If lots fronting on an existing street are to be replatted:
    - a. The owners of all those lots join in the application;
    - b. The amendment does not attempt to remove recorded covenants or restrictions;
    - c. The amendment does not increase the number of lots; and
    - d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (g) **Expiration.** Approval of an Amending Plat shall expire if the Plat is not submitted for recordation within the time period specified for recordation of a Final Plat.

**Section 19.7.5 Plat Vacation**

- (a) **Applicability.** A Plat vacation application must be approved by the City Plan Commission prior to vacation of any recorded Plat or portion thereof. A Plat may be vacated only in conjunction with approval of a new Plat application.
- (b) **Application.** If no lot subject to the recorded Plat has been sold, the property owner may apply for a Plat vacation. If any lot in a subdivision has been sold, the recorded Plat or any portion thereof may be vacated only upon application of all lot owners in the subdivision. A Plat vacation application shall be accompanied by an application for a Land Study, Preliminary Plat, or Final Plat for the land subject to the recorded Plat or portion thereof to be vacated, prepared in accordance with this Article. A Plat vacation application also shall be accompanied by an unconditional Waiver of Right to 30-Day Action (mandated by the State for general approval of Plats) for the Plat vacation application, pending approval of a new Final Plat application for the same land.
- (c) **Processing and Decision.** The Plat vacation application shall be decided by the City Plan Commission in conjunction with its decision on a new Plat application for the same land. The application for Plat vacation shall be processed together with the new Plat application in accordance with the procedures applicable to the new Plat application under this Article. If the new Plat application is for a Land Study or Preliminary Plat, decision on the Plat vacation application shall be deferred or conditioned on approval of a Final Plat application for the land subject to the recorded Plat or portion thereof to be vacated. The Commission shall decide the Plat vacation application after it decides the Final Plat application.
- (d) **Criteria.** The City Plan Commission shall approve the Plat vacation application upon approving the Final Plat application for the same land, and shall deny the Plat vacation application upon denial of such Final Plat application. The Final Plat application, as well as any preceding Land Study or Preliminary Plat application, shall be decided in accordance with the criteria applicable to such applications under this Article.
- (e) **Effective Date of Plat Vacation.** The Plat is vacated when a signed, acknowledged instrument declaring the Plat vacated is approved and recorded in the manner prescribed for the original Plat. On the execution and recording of the vacating instrument, the vacated Plat shall have no further effect.

## **Section 19.8 - Construction Plans and Management**

### **Section 19.8.1 Subdivision Improvement Plans**

- (a) **Purpose.** The purpose of Subdivision Improvement Plans is to assure that public improvements required to be installed in order to serve a subdivision or a development are constructed in accordance with all standards of this Chapter.
- (b) **Application Contents.** When required by this title either prior to or at the time of submission of an application for final plat approval by the City Plan Commission or by staff where administrative approval is authorized, the number of sets of Subdivision Improvement Plans required by the DSC shall be submitted to the City Manager or designee for review for code compliance. All applications shall be submitted on a form supplied by the Development Services Department with the required information as stated on the application form. The subdivision improvement plans shall be submitted for the entire area covered by the subdivision application, and shall comply with all provisions of this Chapter and the DSC. The final Subdivision Improvement Plans including paving and stormwater engineering shall be submitted in one package and be approved or approved with conditions prior to the Final Plat recordation in accordance with this ordinance. The subdivider shall provide and the Subdivision Improvement Plans shall contain all applicable improvements required by this Chapter and the DSC, including but not limited to the following details:
- (1) Grading and slope stabilization as regulated by Chapter 18.44;
  - (2) Drainage facilities;
  - (3) Water and wastewater plans, except water and wastewater plans in developments to be served by EPWU, which shall comply with subsection (c) below;
  - (4) Streets and other rights-of-way (including sidewalks);
  - (5) Bikeway and transit improvements (where applicable);
  - (6) Survey monuments;
  - (7) Street lights;
  - (8) Traffic control signs and traffic signalization; Traffic calming devices (where applicable);
  - (9) Landscaping;
  - (10) Curb ramps;
  - (11) Street pavement markings;
  - (12) Parkland and open space; and
  - (13) Provisions for arroyo protection.

It is the developer and his engineer's responsibility to pull together the plans into one package and follow-up on their review. The thirty (30) day State of Texas

statute for approval of Plats only applies to final approval of Plats and does not apply to engineering and Subdivision Improvement Plans. Incomplete plans shall be returned to the applicant.

- (c) The subdivider shall provide complete EPWU approved water and wastewater design plans on or before the final plat is submitted to the CPC. The subdivider shall have the option of using one of two processes for completion of the plans:
- (1) EPWU prepares complete water and wastewater plans meeting EPWU requirements and standards.
  - (2) The Subdivider's engineer prepares water and wastewater plans meeting TCEQ and EPWU requirements and submitting those plans to EPWU for approval. Upon approval by EPWU the water and wastewater plans shall be provided to the City. The EPWU shall have fifteen (15) business days to accept the plans or reject the plans with comments for corrections. Failure to act within this timeframe shall permit the subdivider to proceed in accordance with 19.8.1(e)(3). This option to the subdivider shall not apply if any offsite extension or capital improvement infrastructure, master plan land studies, or any on-site oversized facilities to serve any areas adjacent to the subdivision are required.
  - (3) Plans will not be approved and the plat will not be recorded until water and wastewater designs meet TCEQ and EPWU/PSB design standards.
- (d) **Phasing Plan.** Where phasing is proposed for the construction and installation of the required subdivision improvements, approval of a phasing plan shall be required, provided, that all of the subdivision improvements are completed within the time period specified herein. The City Manager or designee may approve, disapprove or conditionally approve the phasing proposed if the proposed phasing will provide for the orderly development of the subdivision with adequate access to all improvements, except that no phasing plan shall be approved unless the required drainage structures and ponding areas serving the subdivision are constructed as part of the initial phase of the development. Where the City Manager or designee disapproves a phasing plan, the subdivider may appeal the decision to the City Plan Commission upon a written request submitted to the City Manager or designee. Whether or not the City Manager or designee approves phasing at the time of the Construction Plan submission, a subdivider may request phasing and submit a phasing plan at any time prior to the expiration of the time period for completion of the subdivision improvements, or any authorized extension. A phasing plan submitted and approved by the City Manager or designee after the approval of the Construction Plan submission, shall be considered an authorized amendment to the

Subdivision Improvement Plans and such approved phasing plan shall be attached to and incorporated as part of the approved Subdivision Improvement Plans.”

**(e) Responsible Official and Decision.**

- (1) The City Manager, or designee, shall be the responsible official for approval of Subdivision Improvement Plans.
  - (2) For Final Subdivision Improvement Plans submitted following approval of a Preliminary Plat, the City Manager, or designee shall approve, approve subject to modifications, or reject the Subdivision Improvement Plans within fifteen (15) working days of a determination of completeness as specified in Section 19.37.2, which shall be made within one working day of submission, unless an extension is granted by the City Manager or designee.
  - (3) Failure of the City Manager or designee or EPWU to provide written comments within the prescribed fifteen working days from the date that the submission is accepted for completeness shall permit the subdivider to proceed with the construction of the subdivision improvements pursuant to the plans submitted; except that a subdivider may authorize in advance an extension to the prescribed time period for additional review the by the City Manager or designee or EPWU. The authorization for a time extension shall be provided in writing by a subdivider prior to the expiration of the prescribed fifteen working days. It shall be the responsibility of the subdivider to insure that the subdivision improvement plans meet or exceed all the requirements of the City Code, EPWU requirements and any other regulatory requirements.
  - (4) *Distribution and Review.* Once the Subdivision Improvement Plans are approved, the property owner shall provide additional sets of the approved plans to the City, as specified by the City Manager, or designee, for use during construction. A full set of the City approved and stamped Subdivision Improvement Plans must be available for inspection on the job site at all times.
- (f) Notification.** The City Manager, or designee, shall notify the applicant in accordance with Section 19.38 that the Subdivision Improvement Plans are approved or accepted for construction. The City Manager or designee shall also forward a written certification to all affected departments and agencies advising of the approval of the Subdivision Improvement Plans. The certification shall identify the subdivision name, legal description, and acreage for which the approval was granted.”

**(g) Revised Plan Submission.**

- (1) If the conditions of approval require revision(s) to the Subdivision Improvement Plans, one (1) set shall be marked with objections noted (on the plans themselves and/or in memo format) and returned to the applicant for correction, whereupon the applicant's engineer shall correct the plans as requested and resubmit them for decision.
- (2) The number of sets required by the DSC of Subdivision Improvement Plans revised to reflect the required changes shall be submitted to the City Manager

or designee within fifteen (15) working days of receipt of the official notice of required revisions. Failure of the subdivider to submit the revised plans to the City Manager or designee within the prescribed period shall necessitate the total resubmission and payment of appropriate fees of the Subdivision Improvement Plans; except that a subdivider may request in advance an extension to the prescribed time period from the City Manager or designee for additional time to submit the revised plans.

- (3) The City Manager or designee shall approve or disapprove the revised Subdivision Improvement Plans within five working days based on revisions requested at the initial review of the plans.
  - (4) If the City Manager or designee fails to review the revised subdivision improvement plans within the prescribed period, it shall permit the subdivider to proceed with the construction of the subdivision improvements pursuant to the plans submitted. It shall be the responsibility of the subdivider to insure that the subdivision improvement plans satisfy all the requirements of the City Code, the DSC and any other regulatory requirement.
  - (5) Subdivision Improvement Plans that do not contain all corrections shall be returned to the applicant's engineer with notice to the applicant. The third submission of corrections will require additional fees in accordance with the schedule for additional review time. At the time of submission, the design engineer shall certify that the Subdivision Improvement Plans meet the requirements of the ordinances.
  - (6) A copy of any Subdivision Improvement Plans submitted within the extraterritorial jurisdiction, after approval by the City Manager or designee, shall be forwarded to the county road and bridge administrator.
  - (7) Additional copies may be requested by the City Manager or designee for informational purposes and review by other agencies.
  - (8) The City will not require non-engineering related significant changes in the final Subdivision Improvement Plans or Final Plat approval that contradict the Preliminary Plat approval, reserving the right to address Life Safety or other significant issues that should have been addressed in the Preliminary Plat.
- (h) **Criteria for Approval.** The City Manager, or designee, shall render a decision on the Subdivision Improvement Plans in accordance with the following criteria:
- (1) The plans are consistent with the approved Preliminary Plat, and the proposed Final Plat;
  - (2) The plans conform to the development standards, and standards for adequate public facilities contained in this Chapter; and
  - (3) The plans conform to the specifications contained in the *City of El Paso Design Standards for Construction (DSC)*.
    - (i) **Approval Required.** Subdivision Improvement Plans must be approved or accepted and authorized for construction by the City Manager, or

designee, in accordance with this section prior to Plat recordation. Where the City Manager or designee has authorized public improvements to be deferred, the final plat may be approved, recorded and foundation or building permits may be issued, in accordance with Section 19.8.4.

- (j) **Effect.** Approval of the subdivision improvement plans for code compliance pursuant to this Chapter shall authorize the recording plat submission pursuant to this Chapter. Approval of Subdivision Improvement Plans authorizes the property owner to install public improvements in rights-of-way and/or easements offered for dedication or previously dedicated to the public under an approved Preliminary or Final Plat for which site preparation and other required permits have been approved.
- (k) If the City is unable to comply with the time requirements specified in this section due to unforeseeable causes beyond the control and without the fault or negligence of the City, including but not restricted to, acts of God, or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, orders of any kind of the government of the United States or the State of Texas, operation of law, disturbances, explosions and severe weather, such time restrictions shall be suspended until such time that the inability to perform due to the unforeseeable cause no longer exists.

### Section 19.8.2 Timing of Public Improvements, Permit Issuance

- (a) **Completion Prior to Final Plat.** Except as provided below, after approval of a Preliminary Plat and before an approved Final Plat is recorded, the installation of all public improvements required to serve the subdivision, whether to be located off-site or on-site, including water, wastewater, drainage, roadway, park and open space improvements, shall be finally completed in accordance with the approved Subdivision Improvement Plans.
  - (1) Park and open space improvements in this instance refer to public parks and public open space being constructed as part of the development by the developer.
  - (2) If the development is being constructed in phases, and is platted in phases, park and open space improvements shall be completed as phases are constructed.
  - (3) The installation of improvements required for proper drainage and prevention of soil erosion on individual residential lots, and improvements on any common areas shall be completed prior to Final Plat recordation in accordance with the approved Subdivision Improvement Plans, except as provided below.
- (b) **Installation after Final Plat Recordation.** The City Manager, or designee, upon request of the applicant, may defer the obligation to install one or more public improvements to serve the subdivision for a period of up to two years after Final Plat approval. Deferral of the obligation to install public improvements for more than two

years after final plat approval shall be conditioned on sufficient Security as required in Section 19.8.4.

- (c) **Off-Site Easements.** All off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed by an instrument in a form approved by the City Attorney or the EPWU for water and wastewater easements.
- (d) **Permit Issuance.**

(1) **Grading Permits.** Any grading within the corporate limits or within the extraterritorial jurisdiction shall conform to the applicable portions of Chapter 18.44 (Grading). Properties not required to file a subdivision application pursuant to this Chapter shall only be subject to the requirements of Chapter 18.44. Grading permits may be issued on property requiring a subdivision as provided in this Chapter, as follows:

- a. **Clearing and Access Permit.** No clearing and access permit may be issued by the City Manager, or designee whether or not the requirements of Chapter 18.44 have been satisfied, until preliminary approval on a subdivision application has been granted by the City Plan Commission or administratively by the City Manager, or designee as applicable. The City Manager or designee may approve a Clearing and Access Permit prior to preliminary plat approval provided that grading for such access is less than 20 feet in width. No permit is required for surveying and geotechnical work, provided that grading for such access is less than 20 feet in width.
- b. **Pre-final Grading Permit.** No pre-final grading permit may be issued by the City Manager, or designee, whether or not the requirements of Chapter 18.44 have been satisfied, until preliminary approval on a subdivision application has been granted by the City Plan Commission or administratively by the City Manager, or designee as applicable.
- c. **Final Grading Permit.** No final grading permit may be issued by the City Manager, or designee whether or not the requirements of Chapter 18.44 have been satisfied, until final approval on a subdivision application has been granted by the City Plan Commission or administratively by the City Manager, or designee as applicable, or the Final Subdivision Improvement Plans have been approved by the City Manager or designee.
- d. **Borrow or Waste Permit.** A borrow or waste permit shall be issued by the City Manager or designee pursuant to the requirements of Chapter 18.44.

(2) **Building Permits.**

- a. **Plat Recordation Prior to Issuance of Permits:** Whenever a subdivision is required by this Chapter, no building permit shall be issued for any lot until the subdivision has been recorded and the requirements of Title 18 (Building and Construction) have been satisfied, except on Industrial, Commercial and Multi-family Developments, foundation or

building permits may be issued by the Building Official prior to the Plat being filed if:

1. If more than 50% of the permits have been requested, sufficient Security as if required by Section 19.8.4 must be provided in a form acceptable to the City Manager, or designee, and accepted by the City prior to the issuance of foundation or building permits.
2. The final signed copies of the Plats for recordation have been recorded or delivered to the City to hold until the agreed upon recording date, along with all fees, certificates and until all other recording requirements have been met.

**b. Subdivision Improvements Required Prior to Issuance of Permits:**

No building or foundation permit shall be issued for any lot, or portion thereof, within the subdivision until such time that the required subdivision improvements serving that lot have been completely installed, inspected, approved and accepted by the city as required in Section 19.8.5 of this Chapter, except as follows:

1. Foundation or building permits for lots within a subdivision may be issued by the Building Official. If more than 50% of the foundation or building permits are requested, sufficient Security required in Section 19.8.4, must be provided in a form acceptable to the City Manager, or designee, and accepted by the City.
2. Under no circumstance will construction be allowed beyond the foundation stage until such time as fully charged fire hydrants and a drivable surface acceptable to the Fire Marshall have been provided to such site.

*(3) **Occupancy Permits.** Whenever a subdivision plat is required by this Chapter, no occupancy permit shall be issued for any lot, or portion thereof, within the subdivision until such time that the required subdivision improvements serving that lot have been completely installed and inspected and approved by the city as required in Section 19.8.5 of this Chapter or security has been provided in accordance with 19.8.4. For purposes of this subsection, required subdivision improvements serving a lot shall mean the improvements to the street abutting the lot and extending to the nearest intersecting street outside the subdivision, and any required water, wastewater, drainage, fire protection or other utilities as required by the Building Official, or designee.*

- (e) Curb and gutter construction may be started prior to approval of all Subdivision Improvement Plans provided the grading and paving plans have been approved and a permit has been issued by the City Manager or designee. The risk for starting such construction prior to approval of all Subdivision Improvement Plans shall be borne entirely by the subdivider.

### Section 19.8.3 Completion of Necessary Public Improvement Extension

**Extension of Time.** Where good cause exists, the City Manager, or designee may extend the period of time designated for completion of necessary improvements, specified within agreements required by this section. Such extension of time shall be reported to the City Plan Commission and recorded in the minutes. No such extension shall be granted beyond two years of final plat approval unless security has been provided to the City by the subdivider to cover the extended period of time in accordance with Section 19.8.4.

### Section 19.8.4 Security for Completion of Improvements

- (a) **Security.** Whenever the obligation to install public improvements to serve a subdivision or development is deferred until after recordation of the Final Plat and 1) certificates of occupancy are requested for any buildings within the subdivision or 2) the release of condition pursuant to Title 18 for more than 50% of the building permits is requested or 3) the two year prescribed period for completion after final plat approval of public improvements has lapsed, the subdivider shall guarantee proper construction of any remaining public subdivision improvements, in accordance with standards contained or referred to herein this Chapter, by one of the methods described below:
- (1) Performance Bond. A bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City of El Paso, on the form provided by the City of El Paso in an amount equal to the cost of improvements remaining to be installed as required by this Chapter. The performance bond shall be approved as to form by the City Attorney.
  - (2) Trust Agreement. A trust deposit in a bank, or trust company, for the benefit of the City of El Paso, of a sum of money equal to the estimated cost of all improvements remaining to be installed as required by this Chapter. Selection of trustee shall be executed on the form provided by the City and approved as to form by the City Attorney.
  - (3) Irrevocable Letter of Credit. A letter, on a form provided by the City, signed by the principal officer of a local bank, Federally-insured savings and loan association, or other financial institution acceptable to the City of El Paso, agreeing to pay the City of El Paso on demand a stipulated sum of money to apply to the estimated cost of all improvements remaining to be installed as required by this Chapter. The guaranteed payment sum shall be the estimated costs approved by the City Manager, or designee.
- (b) **Amount and Acceptability.** The security shall be issued in the amount of one hundred and twenty-five percent (125%) of the cost estimate approved by the City Manager, or designee for all remaining public improvements associated with the subdivision in accordance with Section 19.8.4. The consulting engineer shall determine the percentage of total work called for by the Subdivision Approval which

has already been performed and develop a cost estimate of the remaining public improvements acceptable to the City Manager, or designee. The security shall be subject to the approval of the City Attorney.

- (c) **Security for Construction in Extraterritorial Jurisdiction.** Where the land to be platted lies within the extraterritorial jurisdiction of the City, any required security shall be in a form and contain such terms as are consistent with the City or the County, whichever is more stringent.

(d) **Partial Release.**

- (1) Upon application of the subdivider, the City Manager, or designee or his designee shall determine the percentage of total work called for by the Subdivision Approval which has already been performed. That portion of the total, less any prior amounts released and a retainage not to exceed ten percent (10%) of the total shall then be released.
- (2) The City Manager, or designee and other necessary City officials shall execute any documents necessary to cause release of any portion of the security required by Section 19.8.4 in accordance with this provision, provided that all such documents shall be subject to approval by the City Attorney.
- (3) No partial release shall be granted where any substantial part of work performed prior to the date of application fails to meet City standards and specifications for any reason other than incompleteness.

- (e) **Remedies.** In addition to all other remedies authorized in Section 19.42, where security required in Section 19.8.4 has been posted, but required public improvements have not been installed in accordance with the terms of this ordinance, the City may:

- (1) Declare the subdivision project to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the subdivision project is declared to be in default;
- (2) Obtain funds under the security and complete the improvements itself or through a third party; or
- (3) Assign its right to receive funds under the security to any third party, including a subsequent owner of the development in exchange for the subsequent owner's posting of security to complete the public improvements serving the tract.
- (4) If no lots have been sold, the City may initiate proceedings to have the plat vacated.

## Section 19.8.5 Inspection and Acceptance of Public Improvements

### (a) Entry and Inspections.

- (1) The City Manager, or designee shall inspect the construction of improvements while in progress as well as upon completion. Construction shall be in accordance with the approved Subdivision Improvement Plans. The City Manager or designee shall have the right to enter upon the subdivision site for the purpose of conducting inspections. The City Manager or designee shall provide for the inspection of required subdivision improvements during construction to insure general conformity with plans and specifications as approved. If the City Manager or designee finds, upon inspection, that any of the required subdivision improvements have not been constructed in accordance with the Subdivision Improvement Plans, this ordinance or the DSC, then the subdivider shall be responsible for making the necessary changes to insure compliance. Any significant change in design required during construction shall be made by the subdivider's engineer, and shall be subject to prior approval by the City Manager, or designee. If the City Manager, or designee finds upon inspection that any of the required public improvements have not been constructed in accordance with the approved Subdivision Improvement Plans, the property owner shall be responsible for completing and/or correcting the public improvements.
  
- (2) Upon completion of each approved phase of the subdivision construction, the subdivider shall notify the City Manager or designee that the work is ready for a final inspection. The City Manager or designee shall, within ten (10) working days of a notification by the subdivider, arrange and conduct ~~for~~ a joint inspection with the subdivider and the contractor to determine that each aspect of the subdivision has been installed per City standards, and in conformity with the approved Subdivision Improvement Plans. Deficiencies requiring correction by a subdivider resulting from an inspection of the City Manager or designee on any phase of the subdivision construction shall be made in writing, and such deficiencies shall be corrected within thirty (30) days of the written correction notice unless otherwise agreed to by the City Manager or designee in writing. A subsequent inspection of the subdivision construction in any phase requiring correction shall be made within five (5) working days from a request of the subdivider, and the re-inspection(s) shall be solely based on corrections requested at the initial inspection; provided, however, that corrections requested at any inspection and necessitated to comply with any statutory requirement shall be made by the subdivider. Failure of the City Manager or designee to arrange and conduct the inspection(s) as herein provided shall permit the Subdivider to request that the City accept the phase of subdivision construction for maintenance. It shall be the duty of the subdivider to document that the requirement has been met. Documentation that this inspection has been successfully performed shall be submitted to the

City Manager or designee prior to the acceptance of any approved phase of the subdivision improvements and the contractor's release from liability.

- (3) The subdivider shall pay all necessary inspection fees, and no permits shall be issued until the required fees have been paid."

**(b) Submission of As-Built Plans or Record Drawings.** The City shall not accept dedication of required public improvements until the applicant's engineer has certified to the City Manager, or designee, through submission of a detailed "as-built" or record drawing or survey Plat of the property and any off-site easements, the location, dimensions, materials, and other information establishing that the public improvements have been built in accordance with the approved Subdivision Improvement Plans. Each as-built or record drawing sheet shall show all changes made in the plans during construction and on each sheet there shall be an "as-built" or "record" stamp bearing the signature of the engineer and date. An electronic copy of such drawings in accordance with the City Manager, or designee's submission requirements shall also be provided. The drawings shall contain:

- (1) A complete set of "as-built" film reproducible improvement plans for the subdivision. The "as-built" plans shall illustrate that all of the subdivision improvements are in accordance with the Subdivision Improvement Plans and with this Chapter, as approved for the subdivision; and that said subdivision improvements are ready for acceptance by the City, and are free and clear of any and all liens and encumbrances;
- (2) A monument certification letter for City monuments that meet the requirements of the DCC.

**(c) Acceptance or Rejection of Improvements.**

- (1) The City Manager, or designee, shall be responsible for certifying acceptance of completed subdivision improvements intended for dedication to the City of El Paso.
- (2) Within the Corporate Limits. Upon completion of the construction of the subdivision improvements, the subdivider shall request that the City accept the improvements for maintenance. Acceptance of the public improvements shall not be unreasonably delayed, withheld, or denied by the City. The public improvements may be accomplished in phases; provided, that the phasing ~~was~~ is shown on the Subdivision Improvement Plans approved by the City Manager or designee pursuant to this Chapter, and that all phases of the subdivision improvements are completed within the time period specified. Concurrently with the request for acceptance of the subdivision improvements for maintenance, the subdivider shall submit "as-built" subdivision improvement plans and surveys as required in Section 19.8.5 (b). After final inspection, the City Manager or designee shall notify the subdivider in writing as to the acceptance or rejection of such construction.

- (3) He/she shall reject such construction only if it fails to comply with standards and specifications of the City of El Paso. If he rejects such construction and the developer fails to make the corrections as requested, the City Attorney shall, on direction of the City Council, proceed to enforce the guarantee provided by Security called for in this section.
- (4) If the City Manager, or designee accepts such construction upon certification by the design engineer that the improvements have been constructed according to the authorized Subdivision Improvement Plans and upon review of such inspections by City Inspectors, the City shall execute all the necessary documents within 30 days to release the full amount of any security required in Section 19.8.4, including any retainage. The City Manager, or designee, shall issue a certificate to the property owner stating that all required public improvements have been satisfactorily completed. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance, upon acceptance of the required public improvements.
- (d) **Disclaimer.** Approval of a Preliminary Plat or Final Plat by the City Plan Commission shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with this Ordinance.
- (e) **Acceptance of Improvements for Land in Extraterritorial Jurisdiction.** Where the facilities to be constructed are located within the City's extraterritorial jurisdiction, and are to be dedicated to El Paso County, the City Manager, or designee shall coordinate with the County to ensure that the public improvements have been constructed in accordance with approved Subdivision Improvement Plans, and are ready for acceptance by the County. Any public improvements or property to be dedicated to the City rather than the County shall be inspected and must be approved if all requirements have been met and accepted for dedication or future dedication upon annexation.

### Section 19.8.6 Maintenance and Warranty of Improvements

- (a) **Maintenance During Construction.** The property owner shall maintain all required public improvements during construction of the development. Any damage to the public improvements incurred prior to acceptance of the City shall be the responsibility of the subdivider.
- (b) **Bond.** The owner shall covenant to warranty the required public improvements for a period of one (1) year for defective material, construction or workmanship following acceptance by the City of all required public improvements and shall provide a maintenance bond in the amount of fifty percent (50%) of the costs of the improvements for such period. All improvements located within an easement or right-of-way shall be bonded.

- (c) Prior to issuance of the certificate of acceptance by the City Manager or designee pursuant to this ordinance, a one-year maintenance guarantee in favor of the city or county, shall be provided by the subdivider by means of a subdivision improvement agreement and guarantee acceptable to the City Attorney or County Attorney, whomever has jurisdiction.
- (d) In the event of the maintenance or repair of a defect in the roadway improvement for any accepted street classification during the initial guarantee period, the subdivider shall provide a one-year extended maintenance guarantee in favor of the city or county for the entire station(s) of the defect area, such one-year period to commence upon completion of the subject maintenance or repair. Such extended maintenance guarantee procedure shall be repeated until the defect with the affected station(s) has been remedied

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## **Article 2 – Subdivision Standards**

### **Section 19.9 – General Requirements**

#### **Section 19.9.1 General Policy**

- (a) **Adequate Service for Areas Proposed for Development.** Land proposed for development in the City and in the City's extraterritorial jurisdiction must be served adequately by essential public facilities and services, including water facilities, wastewater facilities, roadway and pedestrian facilities, drainage facilities and park and open space facilities. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or offsite.
- (b) **Responsibilities of the Developer.** The subdivider shall pay all design, engineering, labor, and construction costs for facilities required by this Chapter, except to the extent that this section specifically provides for full or partial payment by the City of El Paso, the El Paso Public Water Utilities or others. The provisions of this section shall apply to re-subdivisions as well as to subdivisions. Specifically, the developer shall be responsible for the following:
- (1) Phasing of development or improvements in order to ensure the provision of adequate public facilities;
  - (2) Extensions of public facilities and roadways including any necessary on-site and off-site facilities to connect to existing public facilities;
  - (3) Providing and/or procuring all necessary property interests, including rights-of-way and easements, for the facilities, whether on-site or off-site;
  - (4) Demonstrating to the City that the public facilities are adequate;
  - (5) Making provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation policies, if applicable;
  - (6) Providing for all operations and maintenance of the public facilities until the City or other public entity accepts the improvements;
  - (7) Providing all security, if required in Section 19.8, for the construction of the public facilities;
  - (8) Obtaining approvals from the applicable utility providers other than the City; and
  - (9) Complying with all requirements of the utility providers, including the City and applicable drainage districts

## Section 19.9.2 Reserved

## Section 19.9.3 Conformance to Plans

- (a) **Conformance.** Proposed capital improvements serving new development shall conform to and be properly related to the public facilities elements of the City's adopted Comprehensive Plan, other adopted master plans for public facilities and services including parks and open space, bikeway and transit, and applicable capital improvements plans, and shall meet the service levels specified in such plans.
- (b) **Thoroughfare Plan (Map) Amendments.** No Final Plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the applicant has made adequate provision for thoroughfares as shown on the Thoroughfare Plan (Map) as approved by the City. The Thoroughfare Plan is a guide for the roadway connections and types that will be needed in the future. Subject to City Manager, or designee approval, as long as the connection is made, whether or not it is close to the exact alignment shown on the Thoroughfare Plan, no Thoroughfare Plan amendment should be necessary. The design and construction of the proposed thoroughfare shall be in conformance with the City's master plans for thoroughfares and with the *City of El Paso Development Standards for Construction (DSC)*, and shall be subject to approval by the City Manager, or designee. If a different roadway type is found to be adequate or if the connection is not proposed to be made, then the thoroughfare plan shall be amended, upon provision of a Traffic Impact Analysis of the proposed amendment in accordance with Section 19.18.
- (c) **Water and Wastewater Plans.** No Final Plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the applicant has made adequate provision for a water system and a sanitary wastewater system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary wastewater system to serve the subdivision shall be in conformance with the El Paso Water Utilities master plans and construction standards for water and wastewater facilities and with the Rules and Regulations of the Public Service Board/El Paso Water Utilities and with the *City of El Paso Design Standards for Construction (DSC)*, and shall be subject to approval by the Utility Manager. Subdivisions either in the ETJ or recently annexed and that are not served by the EPWU but by other systems shall either meet the same EPWU requirements or the requirements of the other utility provider but also be subject to approval by the City Manager, or designee.

## **Section 19.10 – Dedication, Construction Requirements and City Participation**

### **Section 19.10.1 Findings on Necessity for Right-of-Way Dedication and Construction as a Condition of Development Approval**

#### **(a) Support for New Development.**

- (1) New development must be supported by adequate public facilities and services as provided for in this ordinance.
- (2) It is necessary and desirable to provide for dedication of rights-of-way and easements for capital improvements to support new development at the earliest stage of the development process.
- (3) Requirements for dedication and construction of capital improvements to serve a proposed new development shall be attached as conditions of approval of any development application that contains a specific layout of the development.

**(b) Essential Nexus.** There is an essential nexus between the demand on public facilities systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct capital improvements to offset such impacts.

**(c) Mitigation of Development Impacts; Proportional Share.** The City desires to assure both that development impacts are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a development project contributes not more than its proportional share of such costs in accordance with this ordinance.

### **Section 19.10.2 In General**

**(a) Dedication and Construction of Improvements.** The property owner shall dedicate all rights-of-way and easements for and shall construct, capital improvements within the rights-of-way or easements for water, wastewater, road or drainage improvements needed to adequately serve a proposed development consistent with the applicable master facilities plans and construction design standards, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed, subject to the rough proportionality requirements of this ordinance.

**(b) Facilities Impact Studies.** The City Manager, or designee, may require that a property owner pay the costs including any consulting fees associated with the preparation of a comprehensive Traffic Impact Analysis, drainage study or other

public facilities study in accordance with this ordinance in order to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The City Manager or designee may also allow the developer to arrange for such studies in lieu of the City preparing such studies. If the study is to determine rough proportionality in accordance with this ordinance, then the City shall provide such study.

### Section 19.10.3 Timing of Dedication and Construction

- (a) **Initial Provision for Dedication or Construction.** The City shall require that the submitted documents for approval and any related studies demonstrate that a proposed development shall be adequately served by public facilities and services at the time of consideration by the City Plan Commission of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a petition for an annexation agreement or a Development Agreement; an application for a Land Study, or an application for a Preliminary Plat or Final Plat. As a condition of approval of the development application, the City may require provision for dedication of rights-of-way or easements for, and construction of, capital improvements to serve the proposed development.
- (b) **Deferral of Obligation.** The obligation to dedicate rights-of-way for or to construct one or more capital improvements to serve a new development may be deferred until approval of a subordinate development permit, or, in the case of a development proposed to be developed in phases, until a subsequent phase of the development, on the sole discretion of the City, upon written request of the property owner, or at the City's own initiative. The City must find that the deferral of the obligation to a later phase has no negative impact on the proposed development and that any additional costs are provided for. As a condition of deferring the obligation, the City may require that the developer enter into a capital improvements agreement pursuant to Section 19.8, specifying the time for dedication of rights-of-way for or provide Security for construction of capital improvements serving the development.

### **Section 19.10.4 Relief from Obligations**

- (a) In order to achieve proportionality between the demands created on public facilities by a proposed development and the obligation to provide adequate public facilities, the City may participate in the costs of capital improvements in accordance with this Article, credit or offset the obligations against payment of any City fees, or relieve the property owner of some or part of the obligations in response to a petition for relief from a dedication or construction requirement pursuant to Article 5 of this ordinance.

### **Section 19.10.5 Roadway Participation Policies - Improvement of Adjacent (Perimeter) Roads and Utilities**

- (a) **Improvement of the Proportional Share of an Adjacent Substandard Road.**  
When an area within a proposed Plat, whether residential or nonresidential, abuts on one or both sides of an existing substandard road or utility facility, or a planned or future road, drainage or utility facility as shown on the City's Thoroughfare Plan and/or adopted plans related to water and wastewater, the developer shall be required to improve the development's proportional share of the road (including appurtenant sidewalks, bikelanes, barrier-free ramps, storm drainage facilities, screening and landscaping, medians and landscaping, median openings, left turn lanes, and water quality or erosion controls), the traffic mitigation (including signalization, medians, access and deceleration lanes) and utility facilities, to bring the facilities to City standards, or to replace them with standard City road, traffic mitigation or utility facilities as determined by a traffic or other public facilities impact study. The study, if required, shall be at no cost to the City unless it is used to determine rough proportionality in accordance with this ordinance, in which case the study will be provided by the City.
- (b) **Calculation of Minimum Proportional Share.**
- (1) The developer's share of improvements to a substandard perimeter road is a minimum of twenty and a half feet (20'-6") of pavement (not including curb), or the equivalent of one-half of a collector street, along the entire front footage of the subdivision, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements.
  - (2) The minimum developer's share of improvements to a roadway when a subdivision is to be located on both sides of a roadway is the full width of a local roadway, which is thirty-six (36') of pavement, plus the curbs, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements. The roadway shall be improved by the developer on each side of the road along the entire length of the subdivision.

(3) The City shall participate in the costs of perimeter roads in excess of the developer's proportional share obligations and where such costs are not borne by another public entity, and in cases where the application of the standards in this Section result in a disproportional burden on the development, as determined in accordance by the City Council in accordance with Section 19.46. If the City Council determines that funds are not adequate, the City Council may choose to do one of the following;

- a. Defer the construction of the improvement, allowing the developer to provide for their share of the improvement at a later date in accordance with this ordinance; or
- b. Allow the developer to install just their portion of the improvement, provided it is adequate for minimum traffic circulation and fire protection; or
- c. Sign an agreement with the developer, if the developer proposes to construct the entire perimeter facility and be reimbursed the City's proportional share over time with interest.

(c) **Participation in Construction of Other Necessary Facilities.** The developer's share for major bridges and similar region-serving drainage structures and for railroad crossings (including the appurtenant roadway paving, sidewalks/pedestrian pathways, abutments, safety railings and cross-arms, median areas, etc.) shall be in accordance with the City of El Paso's policies for the construction of such facilities, and shall not be more than the development's proportional share of such improvement in accordance with this ordinance.

(d) **Improvements.** All streets bordering subdivisions shall be improved, and/or rights-of-way platted, in accordance with the standards prescribed herein. If the subdivider widens existing pavement, the existing pavement shall be cut back a distance required by the City Manager, or designee to assure adequate sub-base and pavement joint before additional paving material is laid on top.

(1) Existing Boundary Streets. For boundary streets which exist to some degree, for example, by previous partial dedication or prescriptive easement, the following standards shall apply.

- a. For all classifications of such streets, the subdivider must dedicate up to one-half the additional right-of-way necessary to comprise the full street width required. Dedication of more than half this additional increment may be required, in some instances, to maximize use of existing roadway and/or ensure a consistent street alignment with a minimum of undesirable curvature.
- b. For all classifications of such streets, except freeways to be completed by others, the subdivider must pave the additional portion of street right-of-way remaining to be paved, according to the adopted Thoroughfare Plan of the City for improving that street cross section. In no instance, however, shall the subdivider be required to construct

at subdivider expense more than thirty-six feet (36') of additional paving, nor shall there result in any less than a twenty-seven-foot (27') paved roadway (except if the rough proportionality portion required by a TIA is less). If the TIA indicates that the developer has a rough proportional share of additional roadway or traffic mitigation that is more than required herein, they may be required to install or pay for such improvements including turn bays, acceleration or deceleration lanes or traffic signal improvements. In lieu of actual street improvement, the subdivider may request the following exceptions, subject to City Manager, or designee and City Plan Commission approval:

- i. The subdivider shall contribute to the City their proportional share of an amount of money necessary to complete all paving, curbing and/or traffic improvements required. These funds shall be held, and eventually disposed of, in the manner described within Section 19.15.2, or
- ii. The City may participate in the road and allow the subdivider to construct such street meeting City standards and designating a time frame for completion, or
- iii. If the subdivision includes no more than two lots, then the subdivider may execute a Developer's Agreement prior to development which runs with the ownership of the land and which obligates the landowner at the time of development to place into a City of El Paso cash escrow fund the amount of money necessary to cover the developer's proportional share of the cost of all required public street improvements. The Developer Agreement shall be on a City-designated form, signed by the property owner, notarized, and filed with the official property records of the County in which the property is located. The agreement shall provide that if any proportions of the improvements have not been made within 10 years of the completion of the development, the remaining cash escrow plus any accrued interest shall be returned to the lot owners.

(2) New Boundary Street. For new boundary streets forming part of the subdivision boundary, the following standards shall apply.

- a. Local Streets. Where a local street forms part of the subdivision boundary, the subdivider shall dedicate right-of-way sufficient to make such streets conform to the requirements of this Ordinance. The subdivider shall also improve such street in conformance with all standards and specifications of the City of El Paso, including installation of curbs on both sides of the street. The City Plan

Commission may grant an exception to provide a portion of the right-of-way and street width, provided two travel lanes are provided, projected traffic is accommodated and a future phase or development will provide the balance of the right-of-way and roadway. Additional right-of-way shall be dedicated and paving shall be constructed to maintain proper intersection alignment.

- b. Collector or Arterial ROW. Where a proposed thoroughfare (other than a local street) forms part of a subdivision boundary, the subdivider shall dedicate approximately one-half the additional right-of-way necessary to comprise the full street width required by this Ordinance, up to a maximum of sixty feet (60'). Dedication of more than this additional increment may be required, in some instances, to maximize the use of existing streets and/or to ensure a consistent street alignment with a minimum of undesirable curvature.
- c. Partial Boundary Street Construction. If the right-of-way for an arterial or collector street forms part of the subdivision boundary, the subdivider shall comply with requirements of either one of the following two paragraphs:
  - i. The subdivider, as required by the City Manager, or designee, shall pave up to thirty-six feet (36') of the right-of-way in accordance with City standards and specifications (except if the rough proportionality portion required by a TIA is less). If the TIA indicates that the developer has a rough proportional share of additional roadway or traffic mitigation, they may be required to install or pay for such improvements including turn bays, acceleration or deceleration lanes or traffic signal improvements. .
  - ii. The City Manager, or designee and City Plan Commission may approve an exception allowing the subdivider to contribute to the City an amount of money equal to that necessary to complete paving and curbing as required by this Section.
- d. Freeway. If the right-of-way for a freeway lies adjacent to or forms part of the subdivision boundary and the paving will be provided by others, no paving improvements shall be required of the subdivider.

## **Section 19.11 - Extraterritorial Jurisdiction (ETJ) Standards**

### **Section 19.11.1 General Provisions**

- (a) Owners of property within the extraterritorial jurisdiction who propose a subdivision of land shall be subject to the provisions of Section.11. The regulations contained within this Section 19.1 and including the Design Standards for Construction, shall be applicable except as modified by this Section 19.1.
- (b) **Plat Applications within the Extraterritorial Jurisdiction.** Where the land to be platted lies within the extraterritorial jurisdiction of the City of El Paso, no Minor Plat, Preliminary Plat, Final Plat or Replat application shall be accepted as complete in accordance with Section 19.37.2 for submission by the responsible official unless the application is accompanied by verification that a copy of such Plat has been delivered to the County of El Paso. If the City has not received a decision from the County of El Paso on matters pertaining to the Final Plat application which are to be determined by the County of El Paso, the application for Final Plat approval shall be accepted for submission by the City, but shall either be approved subject to subsequent County approval or be denied, unless a Waiver of Right to 30-day Action is approved. No Final Plat shall be recorded with the County Clerk until both the City of El Paso and El Paso County have approved and the appropriate officials have signed such Final Plat.
- (c) **Ordinance Conflicts.** Since the area within the ETJ is subject to the subdivision platting rules and regulations of both the City of El Paso and the County of El Paso, and those regulations may be different, conflicts between the regulations will arise. The more stringent of those rules and regulations shall apply.
- (d) **Connections to Existing EPWU Water or Wastewater System Outside the City Limits.** Applications for connection to existing portions of the EPWU water or wastewater system, pursuant to the EPWU Rules and Regulations, for uses located outside the City limits will be granted only with the approval of the Utility Manager.

### **Section 19.11.2 Water and Wastewater Service**

Subdivisions within the extraterritorial jurisdiction shall provide water and wastewater service in accordance with the provisions of this section, provided that nothing within this section is intended to conflict with state law or the rules and regulations of the Texas Commission on Environmental Quality, or to interfere with any permit, license or certificate, to include but not limited to a certificate of public convenience and necessity, granted by the State or TCEQ that establishes who is responsible for providing water and waste water service to a specified area. The City Plan Commission shall not grant a subdivider Final Plat approval unless the subdivision application meets all of the following:

- (a) **Water Service.** All subdivisions shall provide a complete water service and distribution system capable of delivering potable water to every lot in the subdivision

in sufficient capacity to provide for the complete water use needs of the subdivision, and complying with the following:

- (1) Water service shall be provided by the El Paso Water Utilities in accordance with the EPWU Rules and Regulations.
- (2) In the event the El Paso Water Utilities does not agree to provide water service within the time limits stated in this ordinance, the subdivider shall provide water service in accordance with this ordinance.
- (3) Where drinking water is to be supplied to a subdivision from a public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in the Texas Administrative Code (TAC).
- (4) **Retail Utility Agreements.** Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility on the Retail Public Utility Agreement Form available at the City. The agreement must provide that the retail public utility has or will have prior to Final Plat approval the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty years. The agreement must reflect that subdivider has paid, or provided financial guarantees for the payment of, the cost of water meters or other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service will be available to each lot.
- (5) **Design and Construction.** All water facilities within a subdivision within the ETJ of El Paso meeting Section 19.12.1 shall be designed and constructed to City and El Paso Water Utilities (EPWU) standards and to all state laws, policies, standards, rules and regulations for an approved public water system, including those covering the preparation, submittal and approval of plans and specifications for water systems and acceptable operating practices, and in conformance with all laws, policies, standards and rules and regulations for establishing the ISO rating of the City and current fire codes of the City, provided such service is to be provided by EPWU. If water is provided by a water district or other provider holding a permit of Certificate of Convenience and Necessity (CCN), the water facilities shall be designed and constructed per the standards of that entity and the TCEQ. If an area is subsequently deannexed by the non-EPWU provider, then water facilities shall be designed and constructed to EPWU standards.
- (6) **Non-EPWU Systems.**

Within the extraterritorial jurisdiction, if the El Paso Water Utilities determines within 60 days of the filing of a complete application, as defined in EPWU Rules and Regulations, that public water service cannot be provided within twelve months from the date of its action on the water

application, the subdivider shall be allowed to provide water service through a TCEQ approved water system..

**(7) Nonpublic Water Systems.**

- a. An exception may be granted by the City Plan Commission in unique situations for a subdivision to be supplied by a non-public water system.
- b. The developer shall provide documentation that a financial mechanism such as a Public Improvement District to fund and operate such a non-public water system is or will be in place prior to development. Such systems must meet all requirements of this Section and be approved by the City Manager, or designee.

**(8) Individual Wells Within the ETJ.**

- a. Individual wells within the ETJ shall be subject to approval by the appropriate health official and this approval shall be documented by the appropriate health official's signature on the water system statement on the Plat. The developer must submit with the Plat application a certificate from a professional engineer registered in Texas or a geoscientist licensed to practice in Texas verifying the adequacy of the proposed source of well supply prior to Plat approval.
- b. Compliance with Other Regulations. Installation, operations and maintenance of individual wells shall comply with City and EPWU standards, regulations of the TCEQ, any other applicable State rules and regulations. In the event of conflict among these regulations, whichever is the most stringent shall apply.

**(9) Testing.** Where individual wells or other nonpublic water systems are proposed for the supply of drinking water to residential establishments, a test well or wells located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (thirty years) quantity of the available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC.

- a. Without any treatment to the water; or
- b. With treatment by an identified and commercially available water treatment system.

- (10) **Transportation of Potable Water.** The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.
- (b) **Wastewater Service.** All subdivisions shall provide a complete wastewater collection system capable of properly removing wastewater from every lot in the subdivision in sufficient capacity to provide for the complete removal of all wastewater generated by the subdivision, and complying with the following:
- (1) Wastewater service shall be provided by the El Paso Water Utilities in accordance with EPWU Rules and Regulations.
  - (2) The EPWU shall process an application and determine wastewater provision in the same manner as the water service determination in 19.11.2 (a) (6). If wastewater cannot be provided within said 12 months, the subdivider shall provide wastewater service in accordance with one the following:
    - a. **Public sewerage facilities** (other than El Paso Water Utilities):
      - i. A subdivider who proposes the development of an organized wastewater collection and treatment system shall obtain a permit to dispose of wastes from the Texas Commission on Environmental Quality (TCEQ) and approval of engineering planning materials for such systems in accordance with the 30 Texas Administrative Code (TAC).
      - ii. A subdivision that proposes to dispose of wastewater by connecting to an existing permitted facility shall provide a copy of the written agreement with the permittee or retail public utility on the Retail Public Utility Agreement Form available at the City. The agreement shall indicate a willingness and capacity to serve the proposed development, the total occupancy of the proposed subdivision. Engineering plans for the proposed wastewater collection lines shall be approved by the TCEQ prior to construction.
    - b. **On-site sewage facilities.** Where the El Paso Water Utilities or other public wastewater system is not required or planned to be extended in the ETJ, in accordance with applicable standards of this Section, the authorized health authority may grant an exception to provide wastewater service to a subdivision with on-site sewage disposal systems. Plans shall be prepared for installation of on-site sewage disposal systems designed to serve each lot in the subdivision. Where non-EPWU wastewater lines are planned to collect wastes for transport to private, self-contained sewage treatment facilities within the subdivision, both the sewage collection system as well as necessary treatment facilities shall be installed by and at the expense of the subdivider. Plans and installation of such

improvements must be approved by the City Manager, or designee. The developer shall provide documentation that a financial mechanism such as a Public Improvement District to fund and operate such a waste-water system is or will be in place. Such systems must meet all requirements of this Chapter and be approved by the City Manager, or designee

- i. A sewage disposal plan shall be designed by a registered professional engineer or registered sanitarian.
  - ii. On-site sewerage facilities for the on-site disposal of sewage in the amount of five thousand gallons per day or greater shall obtain a wastewater permit from the TCEQ.
  - iii. On-site sewerage facilities not required to obtain a wastewater permit from the TCEQ shall obtain a "permit to construct" from an authorized agent in accordance with the Texas Health and Safety Code, other applicable state codes and the Sewage Facility Order of El Paso County, Texas.
  - iv. On-site sewerage facilities proposed near lakes, water retention ponds or rivers shall be licensed and installed in accordance with the requirements established by the TCEQ in the Texas Administrative Code (TAC).
  - v. On-site sewerage facilities proposed within aquifer recharge zones shall be licensed and installed in accordance with the requirements established by the TCEQ in the Texas Administrative Code (TAC).
  - vi. Proposals for on-site sewage disposal systems shall be subject to the review, approval and inspection of the TCEQ or its authorized agent to assure that the systems are in compliance with the Texas Health and Safety Code and the Texas Administrative Code (TAC).
  - vii. Plans for on-site sewage disposal, as well as actual installation of such facilities, shall be subject to approval by appropriate public health authorities in order to meet requirements of this Chapter. Sewage disposal facilities requiring soil absorption systems may be prohibited where such systems will not function due to high ground water, flooding, or unsuitable soil characteristics. To this end, the City Plan Commission shall require that the subdivider note on the face of the Plat that soil absorption fields are prohibited in designated areas
- c. **Reclaimed Water Systems for Reuse of Treated Wastewater.**
- i. Any proposal for sewage collection, treatment and disposal which includes reclaimed water reuse shall meet the minimum criteria of the Texas Administrative Code (TAC).
  - ii. Any proposal for on-site sewerage facilities which includes provisions for reclaimed water reuse shall meet the minimum criteria of the Texas Administrative Code (TAC).

- d. The disposal of sludge from water treatment and wastewater treatment facilities shall meet the criteria of the 30 Texas Administrative Code (TAC).
- e. The subdivider shall provide the following setbacks for all lots within a subdivision, notwithstanding the separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or potable water supplies: a minimum of ten feet from streets and other public rights-of-way and a minimum of five feet from adjacent property lines.

**(c) Submission Contents.**

1. Final Engineering Report. The Final Plat shall be accompanied by an engineering report regarding the availability and methodology of providing wastewater treatment service prepared meeting the requirements of the DSC, and bearing the signed and dated seal of a professional engineer registered in the state of Texas.
2. On-Site Sewerage Facilities. Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by the TAC, including the site evaluation described by the TAC, requirements and all other information required by applicable OSSF regulations.
3. Public Water Systems. Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement with the retail public utility on the Retail Public Utility Agreement Form available at the City. It must provide that the retail public utility has or will have prior to development the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty years and that the subdivider has provided for the payment of costs or fees for the connection of each individual lot to the public water system, including water meters, water acquisition fees, or other necessary expenses required by the retail public utility. Before Final Plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project, which may include the TCEQ and the health in addition to the responsible departments of the city. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include comments regarding the long term (thirty years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.
4. Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a certificate of convenience and necessity ("CCN") from the TCEQ and include evidence of the CCN issuance with the Plat. Before Final Plat submission, an acquisition or wholesale water supply agreement that will

provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty years must be provided.

5. **Nonpublic Water Systems.** Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 19.11.2(A)(3). The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to Section 19.11.2(A)(3) does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the County at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement confirming the availability of groundwater supplies to serve the fully developed subdivision over the next thirty years. Such statement may be based on information available from the Texas Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.
6. **Organized Sewerage Facilities.** Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish a contractual agreement with the retail public utility on the Retail Public Utility Agreement Form available at the City. It must provide that the retail public utility has or will have prior to development the ability to treat the total flow anticipated from the ultimate development and that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is immediately available to each lot. Before Final Plat approval, an appropriate permit to dispose of wastes shall have been obtained from the TCEQ and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.
7. Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility, and obtain a CCN from the TCEQ. Before Final Plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the TCEQ and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.

**(d) Prerequisites to Approval.**

1. Since State law requires action on a plat within 30-days of a determination of completeness, the City shall, in accordance with this ordinance, approve,

deny or approve subject to conditions a final plat in the ETJ unless a Waiver of Right to 30 day action is provided by the developer. The conditions may include a requirement that County or utility approvals be obtained.

2. The subdivider shall provide evidence that the plans and specifications for construction including any change orders filed with the appropriate authorities have been approved in accordance with the criteria established within this Chapter and the approval from the TCEQ.
3. The subdivider shall provide evidence that the subdivision application has received approval from the El Paso authorized local health agent or department with jurisdiction in accordance with the Texas Administrative Code (TAC) regarding On-site Sewage Facilities, and the Sewage Facility Order of El Paso County, Texas, as applicable.
4. Additional Information. The city may, at its option, require additional information necessary to determine the adequacy of proposed water and wastewater improvements as part of the Plat approval process. Such information may include, but not be limited to:
  - a. Layout of proposed street and drainage work;
  - b. Legal description of the property;
  - c. Existing area features;
  - d. Topography;
  - e. Flood plains;
  - f. Description of existing easements;
  - g. Layout of other utilities;
  - h. Notation of deed restrictions;
  - i. Public use areas; or
  - j. Proposed area features.

(e) **Scope of Standards.** All Plats for residential developments and manufactured home parks shall comply with the minimum standards of this section. Subdivisions are presumed to be residential developments unless the land is restricted to nonresidential uses on the Final Plat and on all deeds and contracts for deeds, or by restrictive covenants recorded in the office of the County clerk with the Final Plat.

### Section 19.11.3 Lot Requirements -Extra-Territorial Jurisdiction

#### (a) Residential Subdivision Lot Sizes:

- (1) In a subdivision in the ETJ where public water and public sewers are provided and on-site ponding is not used, the minimum lot areas shall be six thousand square feet or as approved by the County El Paso, provided a minimum lot width of fifty feet and a minimum lot depth of ninety feet shall be provided.

- (2) In a subdivision in the ETJ where public water and public sewers are provided, and on-site ponding is used, the minimum lot areas shall be ten thousand square feet with a minimum lot width of at least one-third the lot depth.
- (3) Subdivisions in the ETJ served by a public water system, but utilizing individual methods of sewage disposal shall provide for lots of at least one-half acre. In calculating lot or tract sizes, access easements or rights-of-way adjacent to or through such lots shall not be used to satisfy the one-half acre requirement.
- (4) Subdivisions in the ETJ utilizing individual water supply systems, individual methods of sewage disposal shall provide for lots of at least one acre. In calculating lot or tract sizes, access easements or rights-of-way adjacent to or through such lots shall not be used to satisfy the one-acre requirement.
- (5) An exception to the minimum lot size requirements in the ETJ of this section may be granted by the City Plan Commission, upon approval in advance by the TCEQ and the appropriate health official of a sewage disposal plan for on-site sewage disposal prepared by an engineer or sanitarian registered in the State of Texas.
- (6) No more than one single-family detached dwelling shall be located on each subdivision lot in the ETJ. A notation of this restriction shall be placed on the face of the recording Plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the ETJ subdivision. Where otherwise authorized, proposals which include multifamily residential structures shall include adequate, detailed planning materials required by the city for determination of proper water and wastewater utility type and design.

**(b) Manufactured Home Park Space Sizes.**

- (1) The minimum lot area for a manufactured home park where public water and public sewers are provided shall be thirty thousand square feet with a minimum lot width of one hundred feet and a minimum lot depth of three hundred feet. In a manufactured home park where individual manufactured spaces are for lease, the minimum manufactured home space area shall be four thousand five hundred square feet with an average space width of forty-five feet and a minimum space depth of one hundred feet.
- (2) The minimum lot requirements for manufactured homes on individually owned lots in subdivisions shall meet the requirements for a single family lot in Section 19.11.3.a.
- (3) Parks for manufactured homes served by a public water system, but utilizing individual methods of sewage disposal, shall provide a minimum one-half acre for each manufactured home space. In calculating the minimum

manufactured home space area, access easements or rights-of-way adjacent to or through such manufactured home space shall not be used to satisfy the one-half acre requirement.

- (4) Parks serving manufactured homes utilizing individual water supply systems and individual methods of sewage disposal shall provide a minimum one acre for each manufactured home space. In calculating the minimum manufactured home space area, access easements or rights-of-way adjacent to or through such manufactured home space shall not be used to satisfy the one-acre requirement.
  - (5) The space size requirements of this section may be modified by the City Plan Commission, upon approval in advance by the TCEQ and authorized local health agent or department with jurisdiction of a sewage disposal plan for on-site sewage disposal prepared by an engineer or sanitarian. The design shall show proposed well locations within a one hundred fifty foot radius (sanitary control easement) around the well in which no subsurface sewage system may be constructed; except that a watertight sewage unit or lined evapotranspiration bed with leak detection capability may be placed closer to the water well than one hundred fifty feet. In no instance shall the area available for the on-site sewage system be less than two times the design area. The on-site sewage system shall be designed in accordance with the requirements of this Chapter. A finding under this subsection shall only be made upon proof that the on-site sewage system can be operated without causing pollution, a nuisance, or a threat or harm to an existing or proposed water supply system. When a property abuts any public street or alley in which there is a public sewer within three hundred feet from the closest point of the property, and when the on-site sewage system causes pollution, a nuisance, or a threat or harm to an existing or proposed water supply system as determined by the TCEQ and/or the authorized local health agent or department with jurisdiction, the property shall be required to connect to the public sewer.
  - (6) No more than one manufactured home shall be located on each manufactured home space in a manufactured home park. A notation of this restriction shall be placed on the face of the Final Plat of the subdivision.
- (c) **Building Lines.** Front building lines shall be shown for all lots on all Plats submitted for land within the City's ETJ, and shall be as follows:
- (1) The minimum building setback from lot boundaries adjacent to street rights-of-way shall be as follows in subsection "a" below, except as specified in subsection "b."
    - a. Setback from boundary adjacent to freeway (without frontage road in place): Forty feet (40').  
Setback from boundary adjacent to freeway (with frontage road in place): Thirty feet (30').

Setback from boundary adjacent to arterial or Collector Street: Thirty feet (30').

Setback from boundary adjacent to a local street: Twenty-five feet (25').

- b. For new lots created by re-subdivision of land originally subdivided before 1985, the minimum building setback from street-side boundaries shall be the same as that indicated on the most previously recorded Plat or Replat of the particular lot(s) under consideration. In all cases, however, there shall be required a front yard of not less than twenty feet (20') and an exterior side yard of not less than fifteen feet (15'), where no building setback lines are represented on a previously recorded Plat or Replat.

#### **Section 19.11.4 Other Infrastructure Requirements in the ETJ**

- (a) **Parks.** Subdivisions located within the ETJ of El Paso shall meet the park requirements of the City contained within Section 19.20. Any land conveyed to the City for future park purposes shall be identified on the plat as a legal lot with lot number. The developer shall provide to the City a warranty deed, approved by the city attorney's office, conveying the property to the City for park purposes. Land acquired by the city for park purposes under the provisions of this section will not be maintained or improved by the County. A sign with city contact information shall be placed upon the site noting that the lot is owned and maintained by the City of El Paso. Upon acceptance by the City, the City shall have the responsibility to maintain the parkland, facilities and any improvements provided by the dedication or subsequently made to the park in accordance with Section 19/20.
- (b) **Street Lighting.** Subdivisions within the ETJ of El Paso shall make provisions for street lighting in accordance with the requirements of the County.

#### **Section 19.11.5 Deferred Construction of Improvements in the ETJ**

In order to not create disincentives to development within the City Limits of El Paso and to avoid future expenses for the taxpayers of the City to bring newly annexed, developed areas up to city standards, the City will require, where possible, the actual infrastructure required by this ordinance to be installed or constructed. Where such improvements cannot be constructed at the time of plat approval, the City may require cash escrow to offset the future expense in accordance with Section 19.8. If the City Manager or designee determines that an improvement may not be constructed within 10 years, it may waive the requirement for cash escrow for such improvements.

## **Section 19.12 - Water**

### **Section 19.12.1 Water Extension and Installation**

- (a) **Water Required for Public Safety.** All lots, tracts or parcels on which development is proposed shall be connected to a public water system which has capacity to provide water for domestic use and emergency purposes, including adequate fire protection.
- (b) **Responsibility.**
- (1) Within the corporate limits and the extraterritorial jurisdiction (ETJ) the subdivider shall make application to the El Paso Water Utilities if within their designated service area for water service prior to submitting an application for subdivision approval. The El Paso Water Utilities shall act upon the water application within sixty days of the receipt of the completed application.
  - (2) Within the corporate limits, if the El Paso Water Utilities determines that public water service can be provided to the subdivision within twelve months from the date of its action on the water application, the subdivider shall provide water service through the public water system. If the EPWU determines that service cannot be provided to the subdivision within 12 months, then the development shall be considered to not have adequate facilities under Section 19.9.1 until such time as service can be provided or the developer makes arrangement for such service.
  - (3) The subdivider shall install and pay for all water extensions and associated facilities, including fire hydrants, in accordance with all standards required by this Section of this Chapter, the El Paso Water Utilities (EPWU) and all other City ordinances, except to the extent that Sections 19.14.1 and 19.10 provide for refunding the cost of certain water mains larger than eight inches (8") in diameter.
  - (4) All such extensions and facilities shall be installed within a public right-of-way or easement designated for utility access.
  - (5) Upon certification that municipal water extensions and associated facilities have been completed in conformance with applicable standards and specifications, such extensions and facilities shall be dedicated to and accepted by EPWU.
- (c) **Extension and Related Expense.** Where the EPWU's water distribution system is not planned to be extended, all necessary water facilities shall be provided by and at the expense of the subdivider.

### Section 19.12.2 The El Paso Water Utilities System

- (a) **Installation of Water Facilities.** Where water is to be provided through the EPWU system, the developer shall install adequate water facilities, including fire hydrants, in accordance with the current Rules and Regulations for Public Water Systems of the TCEQ, the Rules and Regulations of the El Paso Water Utilities/Public Service Board (EPWU/PSB) and the firefighting standards of the Texas Board of Insurance, and the standards and specifications of the City and EPWU.
- (b) **Facilities for Health and Safety Emergencies; Alternative Water Sources.** All water facilities connected to the EPWU water system shall be capable of providing water for health and emergency purposes, including fire protection. Water supply facilities shall be in accordance with City and EPWU. The design and construction of water system improvements and alternative water sources shall also comply with the following standards:
- (1) Design and construction of a water source on the site shall be in accordance with applicable regulations of the TCEQ.
  - (2) Design and construction of water service from the EPWU shall be in accordance with the standards in the City's DSC and of EPWU.
  - (3) Design and construction of a fire protection and suppression system shall be in accordance with the standards of the DSC, the EPWU, the City's adopted Fire Code, Section 9.52 of the Code and be approved by the City Manager, or designee, Utility Manager and Fire Department.

### Section 19.12.3 Location; Performance Guarantees

- (a) **Subdivision Improvement Plans.** The location of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems and certified water service areas, indicating all improvements proposed to be served, shall be shown on the Subdivision Improvement Plans and shall be in accordance with the Rules and Regulations of the El Paso Water Utilities/Public Service Board (EPWU/PSB) and the City of El Paso, if applicable.
- (b) **Cost.** The cost of installing all water supply improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees furnished by the developer.
- (c) **Location of Lines.** Extension of water and wastewater lines shall be made along the entire frontage of the Plat adjacent to a street or thoroughfare.
- (1) If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions.
  - (2) If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the Utility Manager and City Manager,

or designee may waive the requirement for construction of utility lines adjacent to or extending utility lines to beyond the subdivision at the time of Final Plat approval and prior to construction of the subdivision.

- (d) **Compliance with Other Regulations.** Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ, and with any other applicable State rules and regulations, whichever is the most stringent requirement.

#### **Section 19.12.4 Individual Wells**

- (a) **Within the Corporate City Limits.** Individual wells within the Corporate City Limits of El Paso shall be discouraged. If, in a unique case, an exception is granted to a single property that may not otherwise be served by the authorized local health agent or department with jurisdiction to utilize individual wells, such individual well shall meet all requirements for individual wells contained in Section 19.11.

## **Section 19.13 - Wastewater**

### **Section 19.13.1 Wastewater Extension and Installation**

- (a) **Wastewater Collection and Treatment Required for Public Safety.** All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment. The El Paso Water Utilities (EPWU) Utility Manager shall be responsible for determining the approved means of wastewater collection and treatment. The Utility Manager may coordinate with the City to require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Subdivisions either in the ETJ or that have recently been annexed and are not served by the EPWU shall meet the same requirements but be subject to approval by the City Manager, or designee.
- (b) **Responsibility.**
- (1) Within the corporate limits and the extraterritorial jurisdiction (ETJ) the subdivider shall make application to the El Paso Water Utilities for wastewater collection service prior to submitting an application for subdivision approval. The El Paso Water Utilities shall act upon the wastewater application within sixty days of the receipt of the completed application.
  - (2) Within the corporate limits, the subdivider shall provide wastewater service through the public wastewater system.
  - (3) Within the corporate limits, if the EPWU determines that public wastewater service can be provided to the subdivision within twelve months from the date of its action on the wastewater application, the subdivider shall provide wastewater service through the public wastewater collection system. If the EPWU determines that service cannot be provided to the subdivision within 12 months, then the development shall be considered to not have adequate facilities under Section 19.9.1 until such time as service can be provided or the developer makes arrangement for such service.
  - (4) The subdivider shall install and pay for all municipal wastewater extensions and associated facilities in accordance with all standards required by this Section of the Chapter, the EPWU/PSB Rules and Regulations and all other City ordinances, except to the extent that Sections 19.14.1 and 19.10 provides for refunding the cost of certain wastewater mains larger than twelve inches (12") in diameter.
  - (5) All such lines and facilities shall be installed within a public right-of-way or easement designated for utility access.
  - (6) Upon certification that municipal wastewater extensions and associated facilities have been completed in accordance with applicable standards and specifications, such extensions and facilities shall be dedicated to the El Paso Water Utilities.

**Section 19.13.2 The El Paso Water Utilities Wastewater System**

- (a) **Extension.** Extension of the EPWU wastewater system shall be required for any subdivision within City limits. Extension of municipal wastewater lines shall be done in accordance with adopted policies and Rules and Regulations of the EPWU/PSB.
- (b) **Design Requirements.** Where wastewater is to be provided through a centralized system, the developer shall install adequate facilities, subject to the standards and specifications of the EPWU and state design criteria for wastewater systems.
- (c) **Existing System.** Where insufficient capacity exists downstream of a proposed connection, the replacement and upsizing of the existing main is required of the developer. The installation of a parallel main is prohibited, unless approved by the Utility Manager. Installation for lines in excess of 12 inches may be eligible for reimbursement in accordance with Section 19.10.

**Section 19.13.3 Location; Performance Guarantees**

- (a) **Subdivision Improvement Plans.** The location of all wastewater improvements and the boundary lines of special districts, private systems and certified areas, indicating all improvements proposed to be served, shall be shown on the Subdivision Improvement Plans and be in accordance with the Rules and Regulations of the EPWU.
- (b) **Cost.** The cost of installing all wastewater improvements to be made by the developer, including off-site improvements, shall be included in the performance guarantees furnished by the developer.

## **Section 19.14 – Utilities Generally**

### (a) General Provisions.

- (1) Utilities shall include water, wastewater, natural gas, electric, cable television, telephone and other public utilities.
- (2) All utilities shall be located underground in any new residential subdivision.
- (3) Within nonresidential subdivisions, utilities shall be located underground unless the adjacent property has overhead utility lines.
- (4) Underground utilities may be buried in dedicated easements or in rights-of-way.
- (5) In residential or non-residential subdivisions and in those that are considered "infill" development or redevelopment, overhead electrical utilities may be utilized if the surrounding existing development has overhead electric utilities.
- (6) Electrical transmission lines over 24 KV shall not be required to be placed underground.
- (7) Overhead electrical distribution lines shall be permitted in industrial and/or commercial parks.

### (b) Placement.

- (1) The placement and separation of the various utilities within an easement or right-of-way shall conform to the Development Standards for Construction contained in the DSC. The placement and separation of water and wastewater utilities shall also conform to the requirements of the Texas Commission on Environmental Quality (TCEQ).
- (2) If a water or wastewater main is to be placed in a shared easement, the location of such main in relation to the other utilities shall be coordinated with the affected utility agencies.

### **Section 19.14.1 Utility Connection**

(a) **Participation and Extension Policies.** A property may not be served or connected with water, wastewater, electricity, gas or other utility service unless the owner of the property has been issued or otherwise holds a certificate of compliance applicable to the land to be served or connected as provided in Section 19.37.14. For purposes of this section, utility service and connection shall not include the laying of utility facilities, or the installation and use of meters or hook-ups required for construction of any required subdivision improvements or buildings. Provided, however, that a property may be served or connected with water, wastewater, electricity, gas or other utility service regardless of whether an entity is presented with or holds a certificate of compliance when:

- (1) The property, or any portion thereof, was first served or connected by a public utility that provides water, wastewater, electricity, gas or other utility service before September 1, 1987; or
- (2) The property, or any portion thereof, was first served or connected by either a utility service corporation organized and operating under Article 1434a, Vernon's Texas Civil Statutes or a special district or authority created by or under state law

that provides utility service, with water, wastewater, electricity, gas or other utility service before September 1, 1989; or

- (3) The City Manager or designee issues a certificate stating that:
- a. The land, before September 1, 1995, was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract; and
  - b. The land is located in a subdivision in which utility service has been previously provided; and
  - c. The land is located within the extraterritorial jurisdiction; and
  - d. Construction of a residence on any portion of the property, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997; and
  - e. The person requesting utility service provides either:
    - i. A copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting utility service before September 1, 1995, and a notarized affidavit by that person that states that construction of a residence on the property, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or
    - ii. A notarized affidavit by the person requesting utility service that states that the property was sold or conveyed to that person before September 1, 1995, and that construction of a residence on the property, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997; and
  - f. The utility service provider provides utility service to property described by subsection 19.14.1(a) (3) only if the person requesting service:
    - i. Is not the land's subdivider or the subdivider's agent, and
    - ii. Provides to the utility service provider a certificate from the City Manager or designee as described by subsection 19.14.1(a) (3).
- (4) **Applicability.** This section shall apply to land that is first served or connected with water or wastewater service, or both, on or after July 11, 1995 (passage of Ordinance No. 012475). (Ord. 13907 § 4, 1998: Ord. 13111 § 1 (part), 1997)
- (5) **Exception.** An exception may be granted in accordance with Section 19.48 when the City Plan Commission determines, following a recommendation by the director of the authorized local health agent or department with jurisdiction, that a threat to public health and safety may result from an existing water supply system or on-site sewage system on property which has been privately developed without a subdivision as required by this Chapter; and where the strict application of these regulations cannot be observed due to the existing

conditions of the property. For purposes of this subsection, property which has been privately developed shall include any portion of a tract or parcel of land on which a structure has been permanently located on the ground, or has been attached to something having a permanent location on the ground, and which has been continuously occupied for any use.

### Section 19.14.2 Utility Location Policies

- (a) **Placement.** It is in the City's best interest to coordinate and regulate the placement of utilities within public right-of-ways or public or private easements. Such regulations and coordination shall be managed under the general standards of this Section 19.14.
- (b) **Standards.**
- (1) Public Street rights-of-way shall be the preferred location for all utility extensions to the extent reasonably possible.
  - (2) In order to accommodate the multiple public and franchise utilities within the public street right-of-way, there shall be a minimum amount of unpaved right-of-way outside of and in addition to the right-of-way covered by street paving, sidewalk and curb-and-gutter in accordance with the DSC street cross sections and requirements. This unpaved area may be between the curb and sidewalk or on the outside of the sidewalk. The minimum roadway cross sections in Section 19.15 have been designed with a minimum area behind the curb, and sufficient right-of-way to meet this requirement in accordance with the DSC shall be dedicated to accommodate over-width sidewalks, bikeways, or any surface improvement.
  - (3) Easements on private property may be used in the following instances and under conditions specified therein:
    - a. For pedestal, transformer and utility hut pads;
    - b. Where special developments (i.e. cluster subdivisions and planned development districts) occur;
    - c. Where public or private streets are platted lacking sufficient parkway to install required and franchise utilities and, even then, such easements as needed shall be provided adjacent and parallel to the street;
    - d. Where on site ponding is proposed and the parkway is proposed to be removed to accommodate the onsite ponding, then the utilities must be located in an adjacent easement; and,
    - e. Where unusual circumstances prevent use of the public right-of-way or Private Street.

- f. Easements shall be a minimum of 10 feet on private property, or as specified by the utility provider utilizing the easement.
- (4) Prior to the pavement installation, the subdivider shall obtain a written release from each utility provider indicating that required utility installation is complete. Subdividers shall provide such release to the City.
- (5) A joint trench for electric and communication utilities shall be provided, in accordance with the DSC. Separate trenching for electric and communication utilities will be allowed only:
  - a. In the Mountain Development Area, in accordance with Section 19.24.
  - b. For individual street crossings.
  - c. For service drops
  - d. Where existing service feeds or sources are coming from demonstrably different directions
  - e. In replats where existing utilities are in separate trenches.
- (6) Conduit, to accommodate electric, telephone and cable television service lines at street crossings extending from closures on one (1) side of the street, shall be provided. Utilities shall meet the locational criteria, if any, contained in the DSC.

### Section 19.14.3 Utility Easements on Platted Lots

- (a) **Side of Platted Lots.** Side lot easements are discouraged and shall be allowed only where severe topographic constraints exist or the easements are necessary to serve the property or adjacent property. If one or more utilities must be located at the side of platted lots, an easement shall be designated as prescribed below:
  - (1) The easement shall be a minimum of ten feet (10') in width or as specified by the utility provider utilizing the easement and shall be located entirely within the boundaries of one lot.
  - (2) The property owner whose property is subject to such easement shall be responsible for its maintenance and shall keep it free and clear of any permanent building or structure with the exception of fencing. No building permits shall be issued to place any building or other improvement on, over, or within such easement, in whole or part.

## **Section 19.15 - Roadways**

### **Section 19.15.1 Adequacy of Streets and Thoroughfares**

- (a) **Responsibility for Adequacy of Streets and Thoroughfares.** The property owner shall assure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City's cost participation policies on oversized facilities. Additional right-of-way may be required at some street intersections to accommodate utilities, sidewalks, traffic control devices and/or sight distances.
- (b) **General Adequacy Policy.** Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular, bicycle and pedestrian traffic to be generated by the development. Adequacy as it relates to public improvements including roadways is attained by complying with the requirements and standards of this ordinance, the DSC and all related City ordinances. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be related to the City's Thoroughfare Plan, road classification system, Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.
- (c) **Road Network.** New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, safe and efficient traffic circulation and roadway network connectivity. The adequacy of the road network for developments that meet the requirements of Section 19.18.1(b), Traffic Impact Studies (TIA), shall be demonstrated by preparation and submission, prior to or along with Land Study or the Preliminary Plat application, of a Traffic Impact Analysis prepared in accordance with Section 19.18 (Traffic Impact Analysis). The study shall address accommodating traffic generated by the development, land to be developed in common ownership and other developed property.
- (1) In the event the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the City Manager, or designee may require a demonstration of adequacy pursuant to this article for additional phases or portions of the property as a condition of approval for the proposed Preliminary Plat.
- (d) Major and minor arterials, collectors and other thoroughfares appearing on the City's adopted bike plan shall have bike and hike pathways constructed on both sides of the street. For major and minor arterials, collectors and other thoroughfares not appearing on the City's adopted bike plan, bike and hike pathways may be constructed on one side or both sides of the street.
- (e) **Traffic Calming.** Traffic calming may be provided by the developer or may be required in accordance with the adopted Neighborhood Management Policy and in accordance with the DSC by the City Manager or designee.

## Section 19.15.2 Subdivider Responsibility

- (a) **Safety, Convenience, Functionality.** Proposed roads serving new development shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall conform to the applicable master thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New developments shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation as determined by staff and or a Traffic Impact Analysis.
- (b) **Streets, Generally.** All streets, including curb and gutter improvements, sidewalks, and required infrastructure shall be provided by and at the expense of the subdivider, subject to the rough proportionality provisions of this ordinance. The subdivider shall dedicate all rights-of-way in accordance with 19.15.5(c). The subdivider shall install streets at all locations and in accordance with all standards required by this Chapter.
- (1) The subdivider shall pay the cost of all such improvements, except as follows:
- a. Arterial Streets and Collectors Within Subdivision Boundaries. If the right-of-way for any arterial or collector street lies entirely within the boundaries of any subdivision or portion thereof, the City shall have the option of designing the arterial or collector and/or of being responsible for awarding the contract for construction of required improvements, or allowing the subdivider to arrange for the construction of such arterial provided developer/city participation is in accordance with state bidding statutes. The subdivider shall deposit his share of construction costs with the City prior to award of the contract. The subdivider's share shall include the cost of pavement, curb and gutter, and sidewalks for a street thirty-six feet (36') wide or the roughly proportional share as determined by a TIA.
  - b. Arterial and Collector Streets Bordering Subdivision Boundaries. If the right-of-way of any arterial or collector street forms part of the subdivision boundary, the subdivider shall dedicate the right-of-way and either improve the street in conformance with this Section and Section 19.10.5 or contribute to the City an amount of money equal to that necessary to improve the street in conformance with this Section and Section 19.10.5. All money received from subdividers for improving boundary streets shall be deposited in an appropriate fund(s) of the City. When the City Council resolves to design and improve a bounding arterial or collector street to standards appropriate to its use, then the Assessment Fund or similar funds shall be utilized in payment of necessary construction costs.
  - c. Improving State or Federally Owned Right-of-Way. If the right-of-way for any thoroughfare owned by the State or Federal government lies within or adjacent to the subdivision, the subdivider shall not be required to

pave any portion of it. The subdivider shall, however, arrange to construct or contribute to the City an amount of money equal to that necessary to furnish curb and gutter and sidewalk improvements to any State- or Federally-owned arterial lying within or adjacent to the subdivision, if adequate improvements do not already exist but are determined to be necessary within the next 10 years and are not funded by others. The developer may also be required, based on the TIA, to contribute their rough proportional share of additional frontage road lanes, acceleration or deceleration lanes or bus turnouts. Funds shall be deposited and disposed of in a fashion similar to that described in the preceding paragraph (1) b of this subsection, concerning improvements to arterial streets bordering subdivision boundaries.

- (2) Existing Boundary Streets For Small Subdivisions. If the right-of-way of an existing street forms part of the boundary for a subdivision meeting all of the following conditions, the subdivider shall have the option to make the contribution to the City for the cost of required street improvements, as determined by the City Manager, through an extended payout arrangement consistent with the assessment paving program.
- (3) Alleys. Where provided, alleys shall be installed and improved in accordance with all standards required by this Section and the DSC. Alleys shall be provided by and at the expense of the subdivider.

### **Section 19.15.3 Street/Thoroughfare Escrow Policies and Procedures**

- (a) **Request for Escrow.** Whenever this Chapter requires a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may petition the City Manager or designee to construct the improvement at a later time, in exchange for deposit of escrow as established in Subsection (b) below, if unusual circumstances exist, such as a timing issue due to pending improvements by another agency such as TXDOT or the County of El Paso, that would present undue hardships demonstrated in the petition or that would impede public infrastructure coordination or timing. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, the City Manager, or designee may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of the affected roadways. The City Manager, or designee, shall review the particular circumstances involved and may require a Traffic Impact Analysis with both roadway and traffic mitigation recommendations. The City Manager, or designee, shall determine whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare.
- (b) **Escrow Deposit with the City.** Whenever the City Manager or designee agrees to accept escrow deposits in lieu of construction by the property owner, the property

owner shall deposit in escrow with the City an amount equal to the owner's share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and the interest on such funds will be used to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future. This amount shall be reviewed and approved by the CPC upon recommendation by the City Manager or designee, and shall be paid prior to recording of the Final Plat. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.

- (1) Determination of Escrow Amount: The amount of the escrow shall be determined by using comparable "turnkey" costs for construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). The determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the City Manager, or designee.
- (2) Termination of Escrow: Escrows, or portions of escrowed amounts, which have been placed with the City under this section and which have been held for a period of ten (10) years from the date of such payment or agreement, in the event that the City has not committed or encumbered the funds, approved a contract or authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the abutting property owners along with its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot(s) or if application for a new building permit(s) is made.
- (3) Refund: If any street or highway for which escrow is deposited is constructed by a party other than the City, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the property owner after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
- (4) Interest Limitation: If money is refunded within six (6) months of deposit, only the principal will be refunded. After that date, monies returned after this date will be refunded with its accrued interest less the first six month's interest.

### Section 19.15.4 Street and Alley Abandonment/Vacation

- (a) **General.** The abandonment or vacation of a street or alley shall be achieved by a Replat, a Vacation Plat or a separate instrument. If such was originally dedicated to the City by a Plat, then a Replat or a Vacation Plat may be required for abandonment. If such was dedicated by a separate instrument, then a Replat or Vacation Plat cannot be required, but such abandonment shall be in accordance with City Ordinances regarding such abandonment. Abandonment of a temporary ROW or easement, drainage area or other temporary dedication of land to the City shall be in accordance with the dedicatory language or adopted policy and approved by the City Council.
- (b) **Quit Claim Deed.** A Quit Claim deed that eliminates any and all future claim for City responsibility for the abandoned thoroughfare or alley may be required by the City Council as part of the approval of the document (i.e., Plat or separate instrument) that achieves abandonment.

### Section 19.15.5 General Requirements

- (a) **Approach Roads and Access.** All subdivisions with a single point of access must have no roadway that exceeds 300 feet or 60 dwelling units from the access point or an Average Daily Traffic (ADT) of greater than 1200. All other subdivisions must have at least two (2) points of vehicular access, and must be connected with improved roadways to the City's improved thoroughfare and street system by two or more approach roads of the dimensions and standards hereinafter set forth. An access road that is divided with 20 feet in each direction to the intersection of two streets shall be considered two means of access.
- (1) Requirements for dedication of right-of-way and improvement of approach roads, signalization, median breaks, additional lanes and other traffic mitigation or safety improvements may be increased depending upon the size or density of the proposed development, or if the need is demonstrated by Traffic Impact Analysis.
  - (2) An exception for a subdivision may be allowed by the CPC provided a second emergency access that is controlled in a manner acceptable to the Fire Marshall shall be provided.
  - (3) Each non-residential lot shall have a minimum frontage on a dedicated public street as required by the applicable zoning, unless other provisions have been authorized through a Commercial Unit Development with cross access easements to the property. The City Plan Commission may approve alternative solutions provided the intent of providing adequate emergency access for public safety vehicles is met.
  - (4) Adequate lighting of access points shall be coordinated and provided by the subdivider.
- (b) **Roadway Network Connectivity.**

- (1) All proposed developments must have a connectivity index of 1.4 or greater. The connectivity index shall be calculated by dividing the total number of links (streets including stub-out streets) by the total number of nodes (intersections, cul-de-sacs, no-outlets, dead-ends).
- (2) The City Plan Commission may grant exceptions to these requirements only upon a finding that the development is constrained by topographic features, existing development or other impassible features. The grant of the exception requires the affirmative vote of at least three fourths of all members of the City Plan Commission.
- (c) **Off-Site Improvements.** Where Traffic Impact Analysis demonstrates the need for the facilities or upon the affirmative recommendation of the City Manager or designee, the property owner shall make their proportional share of improvements to off-site collector and arterial streets and intersections necessary to mitigate traffic impacts generated by the development or in conjunction with related developments. The City may participate in the costs of additional/oversize improvements with the property owner as set out herein, and subject to the City's cost participation policies on additional/oversized improvements.
- (d) **Street Right-of-Way Dedication:** The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan and as required by the DSC or by other valid development plans approved by the City, subject to the rough proportionality provisions of this ordinance. There shall be sufficient right-of-way such that sidewalks and related pedestrian activity is not impeded by the location of utilities, including solid waste pick-up, fire hydrants, and utility poles. If such right-of-way is not sufficient, then the developer and/or the respective utility shall be responsible for obtaining additional easements or right-of-way.
- (e) **Street Construction.** All streets and thoroughfares shall be constructed and paved to City standards and within rights-of-way as required by the Thoroughfare Plan and this article, and in accordance with the DSC and other City standards, as may be from time to time amended or adopted.
- (f) **Intersection Improvements and Traffic Control Devices.** Intersections shall be designed and improved in accordance with the DSC. Any additional improvements and/or traffic control devices shall be required only as a result of the findings of a Traffic Impact Analysis when required per Section 19.18.
- (g) **Private Streets.** See Section 19.15.15.
- (h) **Access Management.** Roadway access management standards and requirements related to TXDOT roadways and City roadways shall be in accordance with this ordinance, the DSC, all other City and TXDOT regulations, and as determined by the Traffic Impact Analysis.
- (i) The City Plan Commission may grant exceptions to these requirements in cases where the proposed subdivision is constrained by topographic features, existing

development, or other impassable features, as determined by the City Manager or designee.

### Section 19.15.6 Street Standards

- (a) **DSC Standards Met.** In addition to the requirements of the *City of El Paso Development Standards for Construction* (DSC), the requirements of the street standards in this Section shall be met.
- (b) **Arrangement of Streets and Conformance to the Thoroughfare Plan.** Except as provided in subsection (b)(1) below, the City's adopted Thoroughfare Plan shall be used to determine the minimum type of roadway, the general location of the roadway, and the areas that the roadway is intended to connect as part of the platting process. For streets that are not shown on the City's Thoroughfare Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:
- (1) Conform to any plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
  - (2) Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely not have incompatible land uses; and
  - (3) Not conflict in any way with existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).
- (d) **Projections and Related Requirements.** Where adjoining un-subdivided areas exist, the subdivision street arrangement shall make provision for projection of streets into such areas. Dead-end streets shall otherwise be prohibited, except where projections into un-subdivided land are necessary or where turnarounds are provided in accordance with Section 19.15.10 of this Section. Private streets shall not be allowed to project beyond the subdivision boundary, and therefore shall not be allowed to dead-end at the subdivision boundary.
- (e) **Transitions of Right-of-Way Width.** Wherever the right-of-way width of a residential, local, collector or arterial Street must transition to a greater or lesser width, the transition shall not occur within an intersection but within the street right-of-way so that the right-of-way shall be the same on both sides of the street intersection.
- (f) **Lots Accessing Arterial Streets.** Where a subdivision abuts or contains an existing or proposed arterial street, the City Manager, or designee may require that Single family lots shall not directly access an existing or proposed arterial and no residential lot frontage, other than the side of the lot with no access, shall be

allowed on arterial streets, except where the proposed subdivision meets one or more of the following criteria as determined by the City Plan Commission:

- (1) Where residential lot frontage is provided from an arterial street on an adjoining property, and the City Plan Commission determines that a public benefit would result from permitting the proposed development to be similarly designed; or
  - (2) Where the only street frontage which may be provided to the residential lots is from an arterial street due to the shape, topography or other physical condition of the property; or
  - (3) Where otherwise an exception is granted by the City Plan Commission as provided in Section 19.48 of this Chapter. The City Plan Commission may approve an exception to single family lot direct access in those situations where the property being platted is so shallow that no alternative exists or the lots are large with circular driveways or with some other means of reducing conflicts with arterial traffic. Pedestrian access points from single family residential to provide for maintenance and access to the arterial right of way may also be required.
  - (4) Where residential lot frontage is permitted on an arterial street, the lot(s) shall be designed and dimensioned to permit loop driveways or on-site turnaround facilities so that vehicles head into the arterial street.
- (g) **Configuration Shall Reduce Minimal Offsets.** Intersecting streets onto an existing or future divided roadway must be configured in accordance with Section 19.15.12, such that the centerline offset will accommodate the appropriate median opening and left-turn lanes (with required transition and stacking distances) on each divided roadway, and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway (in order to share the median opening). Median openings and offsets should be analyzed in the Traffic Impact Analysis, and a determination made if developments sharing a median opening may cause additional traffic conflicts, where an exception to sharing a median opening may be made.
- (h) **Right-of-Way Widths.** Street right-of-way widths shall be as shown on the Thoroughfare Plan and as defined by the corresponding roadway cross-sections on the Thoroughfare Plan, in Section 19.15.11 and in the City's DSC.
- (i) **Extensions of Existing Streets.** New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable, unless a lesser street is justified by a TIA.
- (j) **Construction of Streets.** All streets shall be constructed in accordance with paving widths and specifications as set forth in the DSC of the City of El Paso at the time at which any required application is officially submitted and deemed a complete application, in accordance with the vesting provisions of this ordinance.

- (1) Intersections of major and minor arterials shall be constructed with concrete in accordance with the DSC, unless a specific exception is granted by the CPC and upon the affirmative recommendation of the City Engineer.
- (2) All other streets may be constructed with asphalt in accordance with the DSC.
- (k) **Street Grades and Horizontal Curves.** Minimum and maximum street grades and horizontal curves will conform to standards set forth in the DSC.
- (u) **Street Signs.** Street signs shall be installed by the developer at all intersections within and abutting the subdivision. These signs shall be of a type approved by the City, and shall be installed according to City standards and in conformance with the Texas Manual on Uniform Traffic Control Devices.
- (v) **Streetlights.** Streetlights shall be installed in accordance with Section 19.16.
- (x) **Screening Along Roadways.** Screening requirements for roadways shall be in accordance with the zoning districts and requirements outlined in the Zoning Ordinance.
- (y) **Pedestrian Connectivity.** Pedestrian connectivity and access shall be provided between subdivisions, schools (where access is allowed by the School District), cul-de-sacs (i.e., bulb-to-bulb access) and park and open space areas. In cases where a subdivision is constructed in a location that is adjacent to another subdivision, pedestrian access shall be provided such that adjacent development can connect to such access at a later date, when development occurs. Gated subdivisions, subdivisions with severe topography problems or subdivisions where such connectivity may interfere with arroyo or sensitive environmental protection may be exempt from this requirement upon approval by the City Plan Commission.
- (z) **Conformance with the Comprehensive Plan.** Streets and the layout of streets shall be consistent with the adopted Comprehensive Plan, and specifically the Thoroughfare Plan.
- (aa) **Reserve Strips.** Reserve strips controlling access to streets shall be prohibited except where their control is required by the City and approved by the City Plan Commission.

### Section 19.15.7 Intersections, Half-Streets

- (a) **Intersections.** Street intersections shall be situated at an angle of ninety degrees (90°), plus or minus fifteen degrees (15°) except where the intersection utilizes knuckles, turning heels or eyebrows in accordance with the DSC. Such intersections shall maintain proper intersection visibility as determined by the latest edition of AASHTO's *"A policy on Geometric Design of Highways and Streets."* The major access driveway to large multi-family, commercial and industrial developments shall also meet the requirements of this section.
- (b) **Half Streets.** Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other

requirements of this Code and the Thoroughfare Plan, and where the CPC makes a determination at the time of preliminary plat approval that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The CPC may also find that it would be more practical, or cost effective, to delay construction of the other half or some portion thereof of a street until when the adjoining property is developed.

### Section 19.15.8 Street Length

- (a) **Length of a Block or Street Segment.** The maximum length of any block or street segment (including a looped street) shall be sixteen hundred feet (1,600') along arterial streets and 1,200 feet along other streets, except when Table 19.15-3 specifies otherwise or where topographic features or parcels of one-half (1/2) acre or larger would justify an exception from this requirement. Cul-de-sac streets shall adhere to Table 19.15-1 or other requirements herein. Measurements shall be as measured along the centerline of the street from the centerline or center point of one intersection to the centerline or center point of the next intersection. For the purposes of measurement, either a full four way intersection or a "T" three way intersection shall be considered an intersection. Traffic calming may be provided by the developer or may be required in accordance with the adopted Neighborhood Management Policy and in accordance with the DSC by the City Manager or designee.
- (b) **Maximum Length of a Cul-De-Sac Street.**
- (1) No cul-de-sac served by one access point in any single family multiple-family, industrial, or commercial subdivision shall exceed six hundred feet (600') in length or the length as shown in Table 19.15-1, whichever is less.
  - (2) No cul-de-sac in any single family subdivision district shall be designed to serve more than twenty-five (25) single family dwelling units, unless an exception is granted by the CPC to the maximum length, in which case the maximum number of dwelling units shall be increased in the same percentage as the maximum length has been increased.
  - (3) For purposes of this paragraph, cul-de-sac length shall be measured along the centerline of the cul-de-sac from a point beginning at the intersection of the cul-de-sac street with the centerline of the street from which it extends to the center of the turnaround at the end of such cul-de-sac. (Also see Section 19.15.9 for cul-de-sac requirements.) For the purposes of measurement, either a full four way intersection or a "T" three way intersection shall be considered an intersection.
  - (4) An exception may be granted by the City Plan Commission to develop a parcel:
    - a. With topographic problems; or

- b. With arroyos or environmental areas requiring protection surrounding such parcel; or
- c. That is effectively landlocked with no other alternative than a cul-de-sac exceeding 600 feet.
- d. Is in a proposed subdivision that has such a unique configuration that the only way to serve the area in question is with a cul-de-sac exceeding 600 feet. Such exception shall not be granted if the length of the cul-de-sac can be reduced by connection to an adjacent and/or parallel street. The desire to gain additional lots from the cul-de-sac exception by itself is not reason enough to grant such exception to the maximum length.
- e. Additional modifications may be required by the City Plan Commission upon recommendation by the Fire Marshall's office including intermediate turnarounds (eyebrows) to accommodate emergency vehicles being provided at a maximum distance of 600 feet.
- f. Building construction within the area of the cul-de-sac beyond the 600 feet distance shall be fire sprinklered and a note shall be added to the recording Plat and the subdivision improvement plans indicating that buildings are required to be sprinklered within the subdivision, and which lot numbers have such requirement.

(c) **Cross-Reference.** Also see Section 19.15.9 below for cul-de-sac requirements.

### Section 19.15.9 Cul-de-Sac Streets

**Cul-De-Sac Streets.** Except where projecting into adjacent unsubdivided areas, any street having only one vehicular access to another street shall be terminated by a permanent turnaround. Standards for both the turnaround and its street approach are set forth within this Section 19.15.9. Exceptions to these standards shall be discouraged due to firefighting and solid waste collection requirements. Any turnaround, either temporary or permanent, that does not meet these requirements shall be permanently signed for no parking or marked as a fire lane in accordance with the DSC.

- (a) That portion of any street extending from an intersection to a turnaround shall be improved and rights-of-way platted with the minimal dimensions provided in *Table 19.15-1* below.

**TABLE 19.15-1: WIDTH FOR CUL-DE-SAC STREETS FOR CERTAIN ACTIVITIES**

<b>Activity Served</b>	<b><i>Paving Width*</i></b>	<b><i>Right-of-Way Width</i></b>	<b><i>Additional Requirements</i></b>
Less than 12 dwellings	32'	48'	300' maximum length
1-25 dwellings	36'	52'	600' maximum length - Single family, duplex only**
Non-Residential Zoning Districts (except as otherwise specified)	36'	52'	300' maximum length
Heavy Commercial District and Industrial Districts	40'	60'	300' maximum length
* Measured from the front of adjoining curbs **Cul-de-sacs (dead end streets) serving triplex, quadraplex and higher density multi-family uses shall be discouraged. Exceptions may be granted by the CPC where no alternative exists and meeting the Heavy Commercial Standard or in infill development situations.			

(b) The turnaround portion of any cul-de-sac shall be improved, and rights-of-way platted, as prescribed below:

**TABLE 19.15-2: WIDTH FOR CUL-DE-SAC TURNAROUNDS FOR CERTAIN ACTIVITIES**

<b>Activity Served</b>	<b><i>Paving Width*</i></b>	<b><i>Right-of-Way Width</i></b>	<b><i>Additional Requirements***</i></b>
Residential and Non-Residential Zoning Districts (except as otherwise specified)	90' diameter'	110' diameter or 100' with 10' utility and sidewalk easement**	Shall be a min. of 10' of ROW or ROW/Easement Combination behind curb
Heavy Commercial District and Industrial Districts	100' diameter'	120' diameter	
* Measured to front of adjoining curbs. **7 foot to provide room for fire hydrants and other utilities, street lights and traffic/no parking signs, and still meet ADA compliance. ***or in accordance with the DSC.			

**Section 19.15.10 Dead-End Streets**

**Dead-End Streets.** Except when recommended by the City Manager or designee, no public dead-end streets will be approved unless they are provided to connect with existing streets (including stubbed-out streets) or future platted streets on adjacent land.

- (a) In the case of dead-end streets which will eventually be extended into the adjacent property, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end.
- (b) A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac, as provided in Section 19.15.9 above.
- (c) A note shall be placed on the Final Plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property. Any required temporary turnaround easements shall be shown on the Final Plat along with their appropriate recording information, if they are off-site or established by separate instrument.

**Section 19.15.11 Street Width and Design**

- (a) **Pavement Widths and Rights-of-Way.** Pavement widths and design and rights-of-way shall be as follows:

**TABLE 19.15-3: WIDTHS/DESIGN REQUIRED BY STREET TYPE**

Street Type	Minimum Right-of-Way Width*****	Min. Utility Right-of-Way Width**	Minimum Paving Width*	Median Width	Sidewalk Required (See Section 19.21)
Minor Major  Boulevard	76'/ 86'***** 98'/108'*****  96'	9'/14'*** 9'/14'  9'	44'+ 14' turn lane**** 66'+ 14' turn lanes*****  62'	14' 14'  8'/8'	Yes, 5 ft on property line or 10' hike/bike 5' walk on Boulevard
<b>Arterial</b>	The minimum centerline radius shall be sufficient to accommodate a design speed of 45 miles per hour. All arterials shall have an improved median unless an exception is granted due to existing conditions or traffic issues				
Residential Nonres 4 lanes	54' 68'/80'*****	9' 9'	36' 50'/62'*****	14' Option 12'	Yes, 5 ft property line
<b>Collector</b>	Additional right-of-way and paving width may be required on approaches to collectors, arterial streets and freeways.				
The minimum centerline radius shall have a design speed of 35 miles per hour.					
Multi-family/ Commercial/ Industrial	54'/62'	9'	36'/44'	n/a	Yes, 5 ft property line.
<b>Local</b>	The minimum centerline radius shall be have a design speed of 30 miles per hour except for L-shaped (90°) intersections.				
Local 1 Local 2 Local 3 Lane	54' 46'*** 50' 38'***	9' 9' 9' 9'	36' 28'*** 32' 20'***	n/a n/a n/a	
<b>Local, Single Family</b>	The minimum centerline radius shall have a design speed of 30 miles per hour on a Local 1 and 25 miles per hour on a Local 2 or Local 3, except for L-shaped (90°) intersections.				

\* Measured to face of adjoining curbs. Boulevard Arterials, Residential and Non-residential Collectors and Multi-family streets may be utilized for angle parking provided additional right-of-way is provided so that all other measurements in this table are met.

\*\* Where all public and private utilities are required or provided within street right-of-way. This is the minimum combination width behind the curb of the right-of-way and any easements. More may be required if additional utilities are to be provided. (See Section 19.14.2, Utility Location Policies.)

\*\*\*Single family and two family residential streets of less than 640 feet in length may use the smaller width when the facing lots are 50 feet or wider with two car driveways 18 feet in width or with rear entry from alleys. Lanes may be used where the street length is less than 400' and the lots are greater than 20,000 square feet with 50 foot setbacks and driveways are 20 feet in width,

\*\*\*\*Local multifamily and commercial streets provide 4 additional feet on the outside lanes for bikeways. Roadways designated for bike lanes on the MPO Transportation Plan will have striped bike lanes. On residential collectors, the bike lanes shall be included in an 18' outside lane with no center lane. On arterials and non-residential collectors, the outside lane shall be 17 feet including an additional 6' of bike lane. The CPC may allow an exception to provide a bike and hike path in lieu of bike lanes.

\*\*\*\*\*ROW at intersections shall be flared to accommodate the exclusive right turn lanes and other improvements as required in the TIA or as shown in the typicals in the DSC. On major and minor arterials, the flaring shall also accommodate 24 foot medians to provide for future dual left turn lanes.

(b) **Design.** Streets shall be designed according to the following requirements:

- (1) Freeways. Streets shall be designed to accommodate cross-country and/or limited cross-city traffic movement, with partial control of access and possible grade separation at major intersections.
- (2) Arterial. Streets shall be designed to accommodate cross-city traffic movement, distributing traffic to and from collector streets.
- (3) Collector. Streets shall be designed to collect traffic from local streets and connect with arterial streets and freeways.
- (4) Residential Collector. Generally, the term “subcollector” shall refer to streets designed to accommodate traffic movement from local streets to higher classifications of streets as well as provide direct access to activity on individual lots. Specifically, a subcollector may be defined as any street or portion thereof providing direct access to property within commercial or industrial districts as designated on the official Zoning Map of the City of El Paso, any street or portion thereof providing the shortest direct route to a collector street for twenty-five (25) dwelling units or more, or any street segment extending without offset from a collector street and connecting two or more collector streets. Where subcollector streets are terminated by a permanent turnaround, standards for street width and paving shall be as described in *Table 19.15-3*.
- (5) Local. Streets shall be designed to provide direct access to residential activity, and in such a way as to discourage through traffic.

#### **Section 19.15.12 Street Offsets**

**Intersection Off-Sets.** No combination of two (2) streets intersecting a third shall have their centerlines offset any less than the distance specified in *Table 19.15-4* unless a Traffic Impact Analysis recommends a greater distance to preserve safe and efficient traffic operations. The City Manager or designee may grant an exception where infill, topographic or other physical features render the required offset unnecessary or impractical:

**TABLE 19.15-4: MINIMUM OFF-SET DISTANCES**

Types of Streets Intersecting at Offset*	Type of Street Intersected	Minimum Off-Set Distances** ***	
		Intersection Type A	Intersection Type B
Local/Local	Local	125'	125'
Local/Local	Collector	125'	125'
Local/Local	Arterial****	125'	300'
Local/Collector	Collector	125'	300'
Local/Collector	Arterial	125'	300'
Local/Arterial w/o median or median break	Arterial	200'	400'
Collector/Collector	Collector	250'	400'
Collector/Collector	Arterial	300'	400'
Collector/Arterial	Arterial	300'	400'

\* For the purposes of this paragraph freeways shall be considered as arterial streets with no median breaks unless an interchange is provided.  
 \*\*Measured from closest property line to closest property line. as shown in the DSC. If one intersection is signalized, the minimum spacing to the next unsignalized intersection shall be 600' or as dictated by TIA.  
 \*\*\* Existing and future signalized intersections shall be at least 2650 feet apart in order to match the desired spacing in the Thoroughfare Plan and shall be required to have left turn storage in both directions. The City Manager or designee may approve a reduction to the required signal spacing to meet a specific need. The City Traffic Engineer may also require lining up of intersections for future or existing signalization or median breaks, as required in Section 19.15.6.g. Signal spacing in central business districts may be reduced upon approval of the Traffic Engineering Division. Signals shall be spaced at least 2650 feet or more from frontage roads  
 \*\*\*\*Local streets intersecting with an arterial with no median break shall not be required to be offset.

**Section 19.15.13 Curbs and Gutters**

**Curbs and Gutters.** Curbs and gutters shall be installed according to the provisions of this Section and to the DSC. Combination curb and gutter improvements shall be provided to mark the edge of pavement and carry off surface water, as set forth below:

- (a) Beside Freeways. The subdivider shall be required to install curbs along the outside lanes in rights-of-way designated for freeways, as per the TXDOT approval or construction plans.
- (b) Beside Arterial and Collector Streets. The subdivider shall install curbs on both sides of all arterial and collector streets within the subdivision, and on one side of all such streets at the subdivision boundary.

- (c) Beside Local Streets. The subdivider shall install curbs on both sides of all local streets within the subdivision and at subdivision boundaries, except for existing boundary streets, in which case curb and gutter installation shall be required on the subdivision side only.
- (d) At Street Intersections. The minimum curvature of curbs at street intersections shall be as prescribed in the DSC and shall maintain proper stopping sight distance as determined by the latest edition of AASHTO's *"A policy on Geometric Design of Highways and Streets"*.

### Section 19.15.14 Street Names and Addresses

#### (a) Street Names.

(1) Requirement. New streets in a subdivision shall be named in a way that will provide continuity of street names and prevent conflict or confusion with existing street names in the City, in the City's extraterritorial jurisdiction or in a neighboring jurisdiction, subject to the approval of the City Manager, or designee for subdivisions located within the corporate limits, or by the County engineer within the extraterritorial jurisdiction. Subdivisions submitted as a Preliminary Plat shall indicate proposed street names for streets within the subdivision. The City Manager, or designee or County engineer may review, coordinate with the Fire Department and 911 and accept, in accordance with these standards, any street name that is proposed. The City Manager, or designee or County engineer, when requested by the subdivider, may originate street name(s) as needed. Approved street names shall be shown on the Final Plat of the subdivision.

#### (2) Standards.

- a. Preliminary street names shall be shown on the Preliminary Plat and final street names shall be approved with the Final Plat and shown on the recorded Plat. Street names shall not conflict with or duplicate any existing street name within the city or County of El Paso. Conflict may be based on the following;
  - 1. Close pronunciation to another street name,
  - 2. Street name is too difficult to pronounce,
  - 3. Street names with undesirable meanings or connotations, and
  - 4. Street names with language translation problems.
- b. New streets which are extensions of, or obviously in alignment with, existing streets shall bear the name of the existing street.
- c. Cul-de-sac streets having six or more lots fronting on them, or that have more than one hundred fifty feet or more in length measured from the center line of the intersecting street to the center of the turnaround, shall have street names assigned to them. All other cul-de-sac, inlets, turning heels or

eyebrows shall carry the street name, suffix and house numbering sequence of the main street.

- d. Street names shall be in accordance with the DSC.
- e. Street names shall not begin with initials.
- f. Street names shall contain suffixes according to the standards listed below, except that streets within the extraterritorial jurisdiction shall be provided a street name suffix of "road" except where otherwise approved by the County engineer:

General Direction of Street	Street Length 1,000' or More	Street Length Less than 1,000'
North and south	Street	Place
East and west	Avenue	Court
Diagonal	Drive	Way
Curving	Drive	Lane or Circle

- g. Boulevards built in accordance with ordinance may be designated as "Boulevard" regardless of orientation.
  - h. Frontage roads within a freeway right-of-way shall be assigned the suffix of "Gateway".
  - i. Streets with curves, doglegs or offsets up to 90 degrees with fewer than 6 lots fronting on them and no intersecting streets shall maintain the same name and addressing as the street at each end.
3. Renaming of existing streets shall also be in accordance with this Section and all other applicable City ordinances.

(b) Street Addresses.

- 1. Requirement. Street addresses shall be assigned, after consulting with the Fire Department and 911 reviews, by the City for subdivisions located within the corporate limits, or by the County engineer if within the extraterritorial jurisdiction, as part of the Preliminary Plat submittal. Street addresses shall be shown on the final recorded Plat of the subdivision, including residential,

commercial and industrial lot addresses. Blocks to be divided into lots in the future by replatting shall show the address range on the recorded Plat.

## 2. Standards.

- a. Addresses on the north side of streets which are subdivided in a generally east-west direction shall have odd numbers assigned.
- b. Addresses on the south side of the street shall have even numbers assigned.
- c. Addresses on the west side of the street which are subdivided in a generally north-south direction shall have odd numbers assigned.
- d. Addresses on the east side of the street shall have even numbers assigned.
- e. Addresses shall be assigned numerically in intervals of four, except where otherwise approved by the director or County engineer.
- f. Cul-de-sac having less than six lots fronting on them, or less than one hundred fifty feet in length measured from the centerline of the intersecting street to the center of the turnaround, shall be assigned the same house numbering sequence as the main street.
- g. A property not requiring a subdivision shall have frontage on a dedicated public or private street before an official street address may be assigned to it.
- h. Assignment of addresses to corner lots within single-family residential subdivisions shall be determined by the location of the main entrance to the building; except that assignment of addresses to lots with nonresidential uses and having more than one street frontage shall be determined by the location of the main entrance to the building, unless otherwise requested by the property owner and approved by the director.
- i. Addresses shall not be assigned to landlocked or illegally subdivided properties.
- j. As adjacent territory is annexed into the city, the existing street names and addresses in the newly annexed areas shall be reviewed by the director and modified as necessary to eliminate duplication of street names already existing within the city, and to ensure that all addresses follow the numbering sequence existing in the city.

### Section 19.15.15 Private Streets

- (a) **Permitted Only as Local Street.** Private streets shall require approval as an exception at the time of Preliminary Plat approval by the City Plan Commission in accordance with this ordinance. No streets or thoroughfares shown on the adopted Thoroughfare Plan may be a non-public street. Construction and development of

private streets shall meet the standards for right-of-way width and improvement as set forth in this Section 19.15 as applied to public streets.

- (b) **Classification.** At the time a private street is proposed, it shall be classified as either a local or sub-collector street, as described herein and made to conform in all respects with right-of-way paving, curb and gutter, construction, and design requirements as applicable to a public street.
- (c) **Subdivision Boundary Streets.** New subdivision boundary streets shall not be private.
- (d) **Private Streets, General.** Private streets, general. In order to be considered for an exception to allow the construction of private streets, the developer shall meet the requirements set out in this section.
  - (1) Construction: All private streets shall be designed, constructed, and maintained to meet city standards. The construction and improvement plans shall be reviewed by the city in the same manner as construction and improvement plans for public infrastructure. The city shall not participate in any portion of the cost of constructing a private street.
  - (2) Inspection during construction: All private streets shall be subject to inspections by city staff in the same manner, at the same intervals, as public streets, including the payment of applicable inspection fees. A construction schedule shall be submitted with the construction and improvement plans in order to assist in scheduling the inspections. Failure to pass an inspection and meet city construction standards shall require re-inspection, and re-construction, as necessary. No certificates of occupancy shall be released for structures along a private street until all inspections shall have been completed satisfactorily
  - (3) Traffic Control Devices: All private traffic control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices", as amended, and to City standards.
  - (4) Restricted Access: The subdivision homeowners association shall clearly mark entrances to all private streets with a sign, in accordance with the DSC, placed in a prominent and visible location, indicating that the streets within the subdivision are private, and not maintained nor regularly patrolled by the City. All restricted access entrances shall be manned twenty-four (24) hours every day, or they shall provide a reliable, alternative means of ensuring access into the subdivision by the City, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification. The method used to ensure City and emergency access into the subdivision shall be approved by the City's Fire Department and by any other applicable emergency service providers during the final platting process. Gates on private streets shall provide a traffic queue analysis and provide adequate on-street storage in advance of the gate. If the homeowners association fails to maintain reliable access as required by City codes, the City

may enter the private street subdivision and remove any gate or device which is a barrier to access, and bill the expense to the association. If the bill is not paid, the City may file a lien for the expense against any property owned by the association.

- (5) Waiver of Services: Certain city services may not be provided for private street subdivisions, including street maintenance, routine law enforcement patrols, enforcement of traffic and parking regulations, preparation of accident reports, and payment of costs for street lighting. A note as to waiver of services may be required on the face of the plat.
- (5) Street lighting: Street lighting as required by this chapter shall be entirely at the expense of the developer and subsequent property owners. Decorative poles or alternative spacing may be approved by the City Manager or designee, following a recommendation by the DSC, who shall make such recommendation based on the lighting type, the lumens necessary to effectuate safe traffic and pedestrian travel, and a finding that the proposed lighting plan provides as well or better for the health, safety and welfare of the future residents of the private street subdivisions.
- (6) Maintenance. The developer shall provide for the establishment of a homeowners or property owners association, in covenants, conditions, and restrictions (CCRs), to assume the obligation of perpetual maintenance of private streets and other improvements held privately, including a mandatory assessment for such private streets and improvements to be placed on all property owners within the subdivision, allowance for city staff to inspect the streets to assure they are being maintained to city standards, hold harmless provisions as required in subparagraph 9, and providing for notice to the City Attorney and City Manager of any amendments to these relevant sections. The city shall be a necessary party for the amendment of any portions of the CCRs dealing with these requirements. The proposed CCRs shall be submitted for review by the City Attorney at the time of filing the preliminary plat. The City Attorney shall review the CCRs to ensure that the requirements of this section are met, and shall submit recommended changes to the developer, who shall incorporate such changes. Absence of City Attorney approval of the CCRs shall require the denial of the exception for private streets.
- (7) Petition to Convert to Public Streets: A property owners association may petition the city to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members, and the favorable vote of a majority of the membership, or as required in the CCRs. A dedication instrument shall also be submitted, and shall be reviewed and the final form approved by the City Attorney prior to submission of this request to City Council.

The city shall not be required to accept any private streets for public dedication and maintenance. The staff shall review the request and make a

recommendation to CPC, who shall forward a recommendation to City Council. City Council shall make their decision based on the public health, safety and welfare considerations of the streets.

As a condition of accepting the dedication and maintenance of private streets, the city may impose a requirement for repairs and improvements at private expense prior to acceptance, enter into an agreement for an assessment or pro-rata sharing of costs for repairs or improvements prior to acceptance, or other legal or equitable options to ensure that the streets being accepted are not a liability to the city. The city shall be the sole judge of the nature and extent of repairs or improvements needed. The city may also require, at the sole expense of the association's or property owner's expense, the removal of any guard houses, access control devices, landscaping or other amenities located within the streets or common areas prior to city acceptance.

- (9) Hold Harmless: The property owners association, as owner of the private streets and appurtenances, shall release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental or utility entity.

### Section 19.15.16 Alleys

- (a) **Required.** The dedication of alleys shall be optional in all subdivisions, except where alleys must be dedicated as direct continuations or extensions of alleys existing in adjacent subdivisions. Such continuations shall be extended in the same alignment as evident from adjacent lots in the existing subdivision, except where an existing alley is less than sixteen feet (16') wide. In that case, additional land shall be dedicated so as to form an alley at least sixteen feet (16') wide.
- (b) **Existing Subdivisions with Alleys.** Where lots are subdivided or resubdivided adjacent to or within subdivisions already having alleys, the alley must be improved only to the same extent as may be evident from the existing alley. Where lots are subdivided as continuations of existing subdivisions already having alleys, alleys in the new subdivision shall be improved only to the same standards as those existing alleys, all the way to the first street intersection. Thereafter, if alleys are required or desired, they should conform to standards for alley dedication and improvement set forth in subsections (c) below:
- (c) **Alley ROW and Paving Widths.**
- (1) Alley ROW's in commercial, industrial, and multiple-family residential districts (including townhouses and patio homes where rear automobile access is intended) must be a minimum width of twenty-eight feet (28'). Twenty-four feet (24') of the minimum width must be surfaced in accordance with the DSC.

- (2) Alley ROW's in subdivisions, or portions thereof, proposed for single-family residential use must be a minimum width of sixteen feet (16'). Sixteen feet (16') of the minimum width must be surfaced in accordance with the DSC.

(d) **General Requirements.**

- (1) Alleys shall be as nearly parallel to the street frontage as reasonably possible.
- (2) Alley intersections with streets shall be as close to right angles (90°) as practical.
- (3) Where two alleys intersect or turn at an angle, a corner clip of not less than ten feet (10') from the normal intersection of the property line shall be provided along each property line.
- (4) If alleys are not straight within each block or do not connect on a straight course with alleys on adjoining blocks, an easement shall be provided for the placement of guy wires on lot division lines necessary to support overhead utility poles set on curving or deviating alley rights-of-way.
- (5) Alleys should not be platted to intersect any arterial streets.
- (6) Dead-end alleys shall not be permitted unless a permanent or temporary turnaround is provided. The following standards shall apply:
  - a. In subdivisions subject to subsection (b) (1) above, turnarounds shall be provided with a minimum radius of thirty-five feet (35').
  - b. In all other subdivisions, turnarounds shall be provided with a minimum radius of thirty-two feet (32').
  - c. In instances where dead-end alleys will clearly be permanent, turnarounds shall be surfaced in accordance with subsections (b) (1) or (b) (2), as applicable.
  - d. In instances where dead-end alleys are of a temporary nature, turnarounds shall be improved with a minimum six inch (6") base of crushed limestone.
- (7) Layout and arrangement of alleys shall be designed to avoid the creation of short cuts for traffic and to discourage use by traffic other than that generated by activity within property abutting the alley.
- (8) Cross intersections of alleys shall not be permitted.
- (9) Alleys forming the boundary of a subdivision, and adjacent to unplatted property, shall be dedicated and improved the same as if situated in the interior of a subdivision.

## **Section 19.16 – Street Lighting**

### **Section 19.16.1 Street Lighting Required**

- (a) **Requirement.** The subdivider shall furnish and install street lights along all public and private streets, whether within the corporate limits or within the extraterritorial jurisdiction. Such street lights shall comply with the requirements of this ordinance, the City of El Paso lighting ordinance found at Chapter 18.18 of the El Paso Municipal Code and with the requirements of the DSC. The standards shall apply in determining the number of street lights required, and are based on approved standards of the American National Standards Institute and the Illuminating Engineering Society of North America, a copy of which is maintained by the City.
- (b) **Standard.** Street lights shall be installed in accordance with the DSC by the developer:
- (1) At all intersections as close to the corner as possible
  - (2) At the beginning of turnarounds of cul-de-sacs exceeding 300 feet in length, unless located by the City Manager or designee at different intervals or at corners to provide better coverage. In no case, however, shall the number of lights provided by the developer exceed the number in paragraph 6 below.
  - (3) Shall have no greater distance than three hundred feet (300') between them within or abutting the subdivision, unless located by the City Manager or designee at different intervals or at corners to provide better coverage. In no case, however, shall the number of lights provided by the developer exceed the number in paragraph 6 below.
  - (4) "Dark Sky" compliant streetlights shall be installed in accordance with the DSC.
  - (5) Street lights shall be placed at approximately equal intervals between intersections and shall be subject to the approval of the City Manager or designee.
  - (6) The number of street lights that are the responsibility of the developer shall be calculated as the total linear footage between street intersections divided by the required spacing of 300 feet for local and collector streets and as required by the illumination plan for arterial streets. Fractions of street lights shall be rounded to the next whole number when the fractional amount is equal to or exceeds 0.50. Fractional amounts less than 0.50 shall not require an additional street light.
- (c) **Easements:** Where required, electrical service easements for overhead or underground electrical services shall be provided as a part of the subdivision approval. The service connections and street light poles shall be installed by the subdivider.

- (d) **Exceptions:** Exceptions or reductions to the street light spacing requirements for local streets may be authorized by the City Plan Commission at the request of the developer at the time of plat approval:
- (1) On local streets in existing single-family residential neighborhoods where streetlights are not present or have reduced coverage and have not historically complied; or
  - (2) On local streets within an approved subdivision where all the lots have a minimum one-half acre lot area and the adjoining properties have reduced street Lighting; or
  - (3) On mountain residential and divided mountain residential streets within an approved Mountain Development subdivision; or
  - (4) Street lighting shall be provided at all intersections regardless of other exceptions or reductions that may be granted.
- (d) **Expenses prior to Acceptance.** The subdivider shall be responsible for the maintenance and associated cost of electrical energy of the street lights until such lights are accepted by the City or The City of El Paso shall accept the street lights for maintenance and electrical energy costs at the time it accepts the streets and other public improvements within the subdivision for maintenance

### Section 19.16.2 Plan Required

- (a) **Illumination Plan.** An illumination plan for all streets within the subdivision, as part of the requirements of this section, shall be filed, together with the subdivision improvement plans, as provided in Section 19.8, and based on approved standards of the American National Standards Institute and the Illuminating Engineering Society of North America, a copy of which is maintained by the City. The plan shall show the proposed location of the street lights. The illumination plan shall be subject to the approval of the city engineer within the corporate limits, and of the county engineer within the extraterritorial jurisdiction.
- (b) Prior to the acceptance of the street lights for maintenance by the city or county, an amended illumination plan showing the final location of the street lights installed by the subdivider shall be submitted to the city engineer or county engineer

### Section 19.16.3 Custom Lighting

- (a) The subdivider may elect to provide custom lighting in lieu of the required standard street lighting, subject to the approval of such lighting by the City Manager or designee. Custom lighting shall be furnished and installed to meet the approved standards of Title 18 of the Municipal Code.

- (b) Where custom lighting is approved within the street right-of-way, the city or county shall be liable for the costs of electrical energy of the custom lighting provided that the following conditions are met:
- (1) A separate rate can be charged to the City by the electric utility for the custom lighting proposed; and
  - (2) The total rate charged to the City is equal to or less than the rate for electrical energy for standard street lighting.
- (c) If a subdivider elects to provide and install custom lighting, a Public Improvement District (or other such private entity) shall be created which will be perpetually liable for all costs associated with the maintenance of the lighting fixtures. Where the City is not liable for the costs of electrical energy from the custom lighting as provided in this subsection, the Public Improvement District shall also be liable for the electrical energy costs of the custom lighting.
- (d) An agreement between the City and the Public Improvement District shall be required which makes adequate provision to indemnify and hold the City harmless from any claims which may arise from the custom lighting, whether within or outside of the public right-of-way. The agreement shall provide that the City may require that any or all of the installed custom lights be removed, at the Public Improvement District expense, when a finding is made by the city council or county commissioners' court based on a recommendation of the city engineer or county engineer that the custom lighting creates a nuisance or is unsafe. Upon such a finding, standard street lighting pursuant to this section shall be required to be furnished and installed to replace the custom lighting.
- (e) The City shall reserve the right to review and approve all such provisions of the agreement. The agreement shall accompany the subdivision improvement plan submission. Restrictive covenants which include the provisions for continuous lighting and perpetual maintenance of the custom street lights shall be recorded by the subdivider concurrently with the subdivision.
- (f) Where custom lighting is provided, the subdivider or Public Improvement District shall notify the electric utility before any work is commenced at any street light location.
- (g) Custom street lighting placed within the public right-of-way shall meet the lumen level required in the DSC and provide roadway coverage meeting or exceeding that provided by standard street lighting. Lighting outside the right-of-way shall meet the lumen level and coverage requirements of the DSC.

## **Section 19.17 - Driveways**

### **Section 19.17.1 Driveway Approaches and Related Requirements**

**Other Standards.** Driveway approaches, curbs, gutters, pavements and appurtenances on public property and other facilities to provide access to abutting properties in the City and ETJ in connection with platting or building construction shall be constructed, provided, altered or repaired in accordance with the *City of El Paso Development Standards for Construction* (DSC) and as prescribed by the standards outlined within this Ordinance.

### **Section 19.17.2 Shared Driveways and Cross-Access Drives**

- (a) **Type II Driveway Approaches and Shared Driveways.** Shared access driveways in relation to Type II driveways are encouraged and may be required by the City Manager, or designee in order to ensure public safety access by providing mutual/common access to a median opening, to minimize the number of driveway cuts on streets, thereby maintaining street mobility, and to facilitate traffic flow between adjacent lots. (See *Figure 19.17-1*)
- (1) Arterial Street. A shared mutual access easement(s) for a driveway(s) may be required between adjacent lots fronting on an arterial street, as designated on the *Thoroughfare Plan* (as the street exists or is planned to be improved in the future);
  - (2) Location and Dimension. The location and dimensions of such easement(s) shall be determined by the City Manager, or designee.

- (3) Easement on Plats. Such easements shall be noted on the Preliminary Plat and Final Plat with the language specified as part of the City's application requirements.

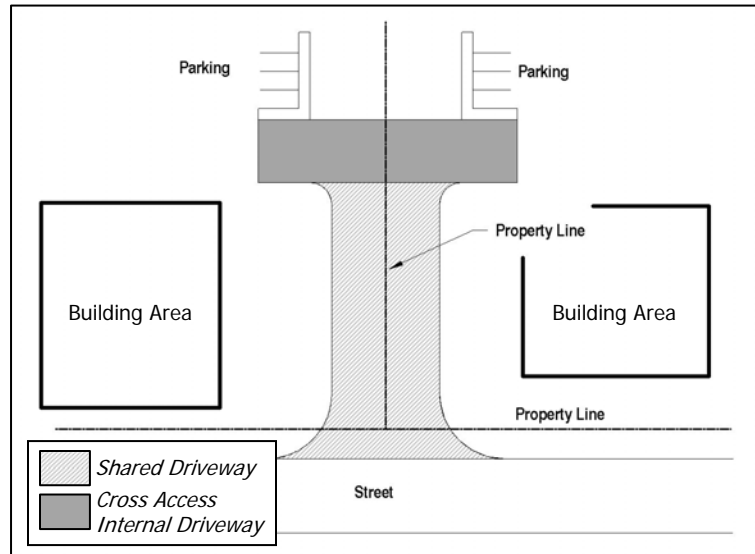


Figure 19.17-1: Shared Access Driveway & Cross Access Internal Driveway

- (b) **Type II Driveway Approaches and Cross Access Internal Driveways.** Cross access easements for internal driveways are encouraged and may be required as part of the Preliminary and Final Plat Approval by the City Manager, or designee in order to minimize the number of driveway cuts on streets, thereby maintaining street mobility, and to facilitate traffic flow between adjacent lots. (See *Figure 19.17-1*)

- (1) May Be Required. A cross access easement(s) for an internal driveway(s) may be required between adjacent lots. Such easement shall be required between adjacent properties within the same plat, phases of plats or ownership when the following conditions exist;
- a. On arterial frontages between adjacent parking lots
  - b. Between lots when one or more do not have direct access to the thoroughfare
  - c. When accessing shared driveways
  - d. On arterial lots in close proximity to intersections where individual lot driveways do not align with median breaks, thereby giving each lot access to a median break.
- (2) Location and Dimension. The location and dimensions of such easement(s) shall be determined by the City Manager, or designee.

- (3) Easement on Plats. Such easements shall be noted on the Preliminary Plat and Final Plat with the language specified as part of the City's application requirements.

## **Section 19.18 – Traffic Impact Analysis**

### **Section 19.18.1 Purpose and Applicability**

#### **(a) Purposes and Findings.**

- (1) New development must be supported by an adequate network of streets and thoroughfares.
- (2) Streets and thoroughfares are an essential component of the City's street network and are necessary to accommodate the continuing growth and development of the City.
- (3) It is necessary and desirable to obtain rights-of-way for off-site, abutting and internal thoroughfares to support new development at the time of platting or development of the land.
- (4) The City desires to assure both that both on-site and off-site development impacts are mitigated through contributions of thoroughfare rights-of-way and improvements and that development projects are not required to contribute more than their proportional share of thoroughfare costs in accordance with this ordinance.
- (5) It is the City's intent to assure that dedications of thoroughfare and street rights-of-way and their construction requirements are proportional to the traffic demands created by a new development.
- (6) It is the intent of the City that a road adequacy determination be made concurrent with consideration and approval of development applications.

#### **(b) Applicability.**

- (1) A Traffic Impact Analysis (TIA), in adherence to standards contained within this Chapter and City of El Paso approved guidelines, shall be required by the City Manager, or designee for the following unless the City Manager or designee determines that a TIA is not needed due to studies already completed or improvements already constructed.
  - a. All proposed developments within the City limits and within the City's extraterritorial jurisdiction that are expected to generate traffic in excess of 500 adjusted average daily trips for commercial and industrial uses and 1,000 average daily trips for residential.
  - b. If a development project will generate more than 50 adjusted peak hour vehicle trips for commercial or industrial uses or 100 peak hour trips for residential uses.

- (2) The number of trips generated by the proposed development shall be based on proposed land uses and intensities according to the latest edition of the Institute of Transportation engineers (ITE) Trip Generation Manual or locally approved trip generation rates.
- (3) In the event that land uses and intensities of use for the development are not identified in a development application, the daily trip generation rate shall be computed based upon the maximum land use intensity allowed under the City's adopted Comprehensive Plan for the land proposed to be subdivided or developed.

### Section 19.18.2 Standards for and Timing of Traffic Impact Analysis

(a) **TIA and Update Required.** A TIA shall be submitted with a Zoning Application, a Preliminary Plat or with the Land Study, if previously submitted. An updated TIA shall also be submitted with the Final Plat if substantial changes have been made from the Preliminary Plat, and shall be generally consistent with the TIA submitted with the Preliminary Plat. The initial TIA may also be updated whenever the plan for the proposed development is modified to authorize more intensive development.

(b) **Contents.**

- (1) The TIA on a Land Study (or Preliminary Plat or Zoning Application if no Land Study is provided) shall identify or determine the following:
  - a. Trips to be generated by the proposed development trip generation shall be calculated using the latest edition of *ITE's Trip Generation Manual* or trip generation rates approved by the City of El Paso;
  - b. Distribution and assignment of such trips to the road network analyzed;
  - c. The capacity of affected thoroughfares before and after the proposed development. Capacity shall be quantified by level-of-service based on the latest version of the *Highway Capacity Manual*. The volume to capacity ratio ( $v/c$ ) shall be included in the level-of-service tables. The capacity analysis shall include the AM and PM peak hours, 24-hour, and special times or days of the week dependant of the land use's peak traffic generating time periods as determined from the latest version of *ITE's Trip Generation Manual*. Additional factors such as pedestrian trips, bicycles, and mass transit as possibly mitigating vehicle trip counts shall be considered where warranted.
  - d. Deficient thoroughfares or roadways shall be determined based upon the minimum acceptable level-of-service as put forth in the following table:

**TABLE 19.18-1: REQUIRED MINIMUM ACCEPTABLE LEVEL-OF-SERVICE (ROADWAYS)**

Proposed Developed Projected Level – of – Service (Full Build-Out Year)	Level-of-Service Without Proposed Development (Full Build-Out Year)						
	A	B	C	D	E	F	
A	A	-	-	-	-	-	
B	B	B	-	-	-	-	
C	B	C	C	-	-	-	
D	B	C	C	<sup>A</sup> D	-	-	
E	B	C	C	<sup>A</sup> D	<sup>AB</sup> E	-	
F	B	C	C	<sup>A</sup> D	<sup>AB</sup> E	<sup>AB</sup> F	

<sup>A</sup>The City may choose to participate in roadway improvements to restore a minimum level-of-service C.

<sup>B</sup>In cases where the level-of-service of the roadway network without development is below a level-of-service D the proposed development shall not increase roadway/intersection delay. The City Manager or designee may deem that the proposed development cannot be supported by the existing roadway network.

- e. The development project’s proportionate share of the costs of such thoroughfares and modifications including rights-of-way.
- (2) The TIA on a Preliminary Plat and a Zoning Application (or Building Permit if not submitted previously, or Final Plat if no Preliminary is provided) shall identify or determine the following:
- a. Turning movements at intersections, access points, and median breaks;
  - b. Analysis of median breaks, ingress and egress and all intersections, including a queue analysis, for both AM and PM peak hours and special times or days of the week dependant of the land use’s peak traffic generating time periods as determined from the latest version of *ITE’s Trip Generation Manual*;
  - c. The capacity of affected intersections before and after the proposed development shall be reported, based on the latest version of the *Highway Capacity Manual*, adjusted to reflect existing signal timing plans. The volume to capacity ratio (v/c) shall be included in the intersection level-of-service tables;
  - d. Deficient intersections and capacity. Deficient intersections shall be determined based upon the minimum acceptable level-of-service as put forth in the following table:

**TABLE 19.18-2: REQUIRED MINIMUM ACCEPTABLE LEVEL-OF-SERVICE (INTERSECTIONS)**

Proposed Developed Projected Level – of – Service (Full Build-Out Year)	Level-of-Service Without Proposed Development (Full Build-Out Year)					
	A	B	C	D	E	F
A	A	-	-	-	-	-
B	B	B	-	-	-	-
C	B	C	C	-	-	-
D	B	C	C	<sup>A</sup> D	-	-
E	B	C	C	<sup>A</sup> D	<sup>AB</sup> E	-
F	B	C	C	<sup>A</sup> D	<sup>AB</sup> E	<sup>AB</sup> F

<sup>A</sup> The City may choose to participate in roadway improvements to restore a minimum level-of-service C.  
<sup>B</sup> In cases where the level-of-service of the roadway network without development is below a level-of-service D the proposed development shall not increase roadway/intersection delay. The City Manager or designee may deem that the proposed development cannot be supported by the existing roadway network.

- e. Specific recommendations for thoroughfare, intersection, and roadway improvements and traffic control modifications and other traffic improvements to mitigate the traffic from the proposed development (any proposed signal timing must include the entire coordinated system not just intersections within the TIA study area); and
- f. The development project's proportionate share of the costs of such improvements and modifications including rights-of-way.
- g. Specific recommendations including but not limited to bus turnouts, auxiliary lanes, traffic calming, location of access points, location of median cuts, parking lot layout, and site distance.

(2) The method of preparing the TIA shall be determined by the City Traffic Engineer.

(c) **Capital Improvements Plan for Roads.** The capacity of a thoroughfare may be considered adequate for purposes of a TIA if a needed improvement is included, funded, and approved in the City's, County's or state's two(2)-year capital improvements plan for roads, or, if the improvement is included, funded, and approved in the City's, County's or state's three(3)- to five(5)-year capital improvements plan for roads, provided that the applicant agrees to phase development to conform to such scheduled improvement. This section shall not be construed to prevent the City from requiring dedication of rights-of-way for such roads, or from assigning trips to such roads in a TIA in order to determine a development project's proportionate costs of improvements.

- (d) **Use Intensity Table.** Where a proposed Plat application does not designate the land use or intensity of use proposed for the development, for purposes of ascertaining the applicability of this Chapter and the trips to be generated, the City may utilize typical uses and intensities of use. For land to be developed for non-residential or multiple-family use in the City's extraterritorial jurisdiction, the City may utilize uses and intensities of use that are typical in the most intensive zoning district that authorizes the type of use proposed in the development.

### Section 19.18.3 Criteria for Determining Traffic Impact Analysis Requirements

**Scope.** The scope of the Traffic Impact Analysis shall be based on the peak hour trips projected to be generated by the proposed development, as set forth in the following table:

**TABLE 19.18-3: CRITERIA FOR DETERMINING TRAFFIC IMPACT ANALYSIS**

Non-residential Adjusted Peak Hour Trips	Residential Peak Hour Trips	TIA Analysis Period	TIA Scope
49 or less	99 or less	1. n/a	Not Required
50-99	100-500	1. Existing 2. Opening year 3. Full build-out year 4. 5 years after full build-out 5. 10 years after full build-out	The frontage of the property, all access points (including common access), and all intersections within a ½ mile radius of the proposed development.
101-499	501-1000	1. Existing 2. Opening year 3. Full build-out year 4. 5 years after full build-out 5. 10 years after full build-out	The frontage of the property, all access points (including common access), and all intersections within a 1 mile radius of the proposed development.
501 or more	1000 or more	1. Existing 2. Opening year 3. Full build-out year 4. 5 years after full build-out 5. 10 years after full build-out	The frontage of the property, all access points (including common access), and all intersections within a 1 1/2 mile radius of the proposed development.
<b>NOTE:</b> All measurements shall be made from property boundaries.			

### Section 19.18.4 City Evaluation and Action

(a) **Criteria.**

- (1) The City Manager or designee shall evaluate the adequacy of the TIA prepared by the applicant. Based upon such evaluation, the City Manager, or designee shall make recommendations concerning:
    - a. Whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare; and
    - b. The extent of the applicant's obligations to make such dedications or improvements.
  - (2) The City Manager, or designee may recommend, and the decision-maker on the application may attach, conditions to the approval of the development application, based on one or more of the following performances by the applicant:
    - a. Delay or phasing of development until thoroughfares with adequate capacity or intersection improvements are constructed;
    - b. A reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development;
    - c. The dedication or construction of thoroughfares or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development; or
    - d. Any combination of techniques that assures that the traffic impacts of the development will be mitigated.
- (b) **Deferral of Obligation.** Upon request of the applicant or property owner, the obligation to dedicate or improve thoroughfare rights-of-way or to make intersection improvements imposed on a development application may be deferred until the City's action on a subordinate (i.e., subsequent) development application. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, the deferral shall be at the sole discretion of the City. The City shall require the developer to execute a Subdivision Improvement Agreement (see Section 19.8.2) acceptable to the City Attorney specifying the amount and timing of the rights-of-way dedication or improvements to thoroughfares.

## **Section 19.19 – Stormwater Management Requirements**

### **Section 19.19.1 General Provisions**

- (a) **Purpose and Intent.** The purpose of this Stormwater Management Section is to protect, maintain and enhance the public health, safety, environment and general welfare of the citizens of El Paso, Texas and the ETJ, by establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff and non-point source pollution associated with new development and redevelopment. It has been determined that proper management of storm water runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water resources. This ordinance seeks to meet that purpose through the following objectives:
- (1) Establish decision-making processes surrounding private and public land development activities that protect the integrity of the watershed and preserve the health of water resources;
  - (2) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, non-point source pollution and maintain the integrity of natural and man-made channels;
  - (3) Establish minimum post-development stormwater management standards and design criteria to be adopted via a Drainage Design Manual (DDM) as part of the Development Standards for Construction (DSC);
  - (4) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum stormwater management standards thru the DDM;
  - (5) Encourage the use of nonstructural stormwater management such as the preservation of greenspace and other conservation areas, to the maximum extent practicable. Coordinate site design plans, which include greenspace, with the City's Master open space plan;
  - (6) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety.
  - (7) Establish administrative procedures for the submission, review, and approval of stormwater management plans, and for the inspection of approved active projects, and their continued maintenance.

- (b) **Applicability.** This section shall be applicable to subdivision development. The DDM standards shall apply to all development.
- (c) **Exemptions.** The following activities are exempt from this Section:
- (1) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;
  - (2) Additions or modifications to existing single-family or duplex residential structures;
  - (3) Agricultural activities within areas zoned for these activities and/or where agricultural activities are legally allowed; and,
  - (4) Repairs to any stormwater management facility ~~or practice~~ deemed necessary by the City Manager (or designee).
  - (5) Subdivisions whose sole means of stormwater management is by individual lot, on-site retention ponds, shall be exempt from the requirement for an inspection and maintenance agreement.
- (d) **Designation and Role of Storm Water Administrator.** The City Manager or designee who is a Professional Engineer licensed in the State of Texas, is hereby authorized and appointed to administer and implement the provisions of this section and related Sections of this ordinance, as may be applicable.
- (e) **Drainage Design Manual.** The City will utilize, apply, and enforce design standards, methods, criteria, and administrative policies and procedures provided in the latest technical edition of the DDM incorporated by reference in its entirety. The DDM may be updated and periodically expanded as required.

### **Section 19.19.2 Stormwater Requirements for compliance with Subdivision Approval.**

Within the current Subdivision review and approval process, no owner or developer shall perform any land development activities without first meeting the requirements of this ordinance prior to commencing the proposed activity. Unless specifically exempted by this ordinance, any owner or developer proposing a land development activity shall submit to the City, with their subdivision the following items for consideration:

- (a) Stormwater management plan in accordance with Section 19.19.3;
- (b) Inspection and maintenance agreement for private facilities in accordance with Section 19.19.4, if applicable;

- (c) The City shall advise the developer or his representative whether the stormwater management plan and inspection and maintenance agreement are compliant.
- (d) If the stormwater management plan or inspection and maintenance agreement are deemed non-compliant, the City shall notify the developer or his representative of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same.
- (e) Upon a finding by the City that the stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this ordinance, the City shall approve the stormwater management component of the subdivision submittal provided all other legal requirements for the such approval have been met.

### **Section 19.19.3 Stormwater Management Plan Requirements**

- (a) The stormwater management plan shall detail how stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this ordinance, including the performance criteria set forth in the DDM.
- (b) This plan shall be in accordance with the criteria established in this section and must be submitted signed and sealed by a Professional Engineer (PE) licensed in the state of Texas, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the DDM.
- (c) The stormwater management plan must ensure that the requirements in this ordinance are being met. The plan shall include all of the information required in the Stormwater Management Site Plan checklist found in the DDM.

### **Section 19.19.4 Stormwater Management Inspection and Maintenance Agreements for Private Facilities**

- (a) Prior to the approval of any land development activity requiring a stormwater management facility or practice hereunder and for which the City shall require ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility is dedicated to and accepted by the City, execute an inspection and maintenance agreement, if applicable, that shall be binding on all subsequent owners of the site.

- (b) The inspection and maintenance agreement, if applicable, must be approved by the City prior to plan approval, and recorded in the deed records upon final plat approval.
- (c) The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance activities. Responsibility for the operation and maintenance of the stormwater management facility, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in Chapter. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.
- (d) As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof.
- (e) In addition to enforcing the terms of the inspection and maintenance agreement, the City may also enforce all of the following provisions for ongoing inspection and maintenance.

(1) Maintenance and Inspection of Private Stormwater Facilities

- a. Stormwater management facilities included in a stormwater management plan which is private and therefore subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this ordinance.
- b. A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the City shall notify the person responsible for carrying out the maintenance plan by certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City may correct the violation as provided in

Subsection (4) hereof.

- (2) Right-of-Entry for Inspection of Private Facilities. The terms of the inspection and maintenance agreement shall provide for the City to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.
- (3) Records of Maintenance Activities at Private Facilities. Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the City as required by the agreement.
- (4) Failure to Maintain Private Facilities. If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The City may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

### **Section 19.19.5 Construction Inspections of Stormwater Management System**

- (a) Inspections to Ensure Plan Compliance During Construction. Periodic inspections of the stormwater management system construction shall be conducted by the City.
- (b) Final Inspection and Record Drawings and Documents. Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit as constructed record drawings and documents for any stormwater management facilities after final construction is completed. The record drawings must include the final design specifications for all stormwater management facilities and must be certified by a Professional Engineer licensed in the State of Texas. For those facilities that included mechanical systems, operations and maintenance manuals shall also be included. A final inspection to be conducted concurrent with other inspections by the City is required before the release of any performance bonds can occur.

## **Section 19.20 – Parks and Open Space**

### **Section 19.20.1 Policy Plan and Purpose**

- (a) Purpose. This Section is adopted to provide recreational areas as a function of subdivision development in the City of El Paso. This article is enacted in accordance with the home rule powers of the City of El Paso granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, V.T.C.A. Local Government Code, Chapter 212. It is hereby declared by the City Council that recreation areas in the form of neighborhood parks, community parks that serve several neighborhoods, linear parks, trails, and open space areas are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the City, whether such development consists of new construction on vacant land or the addition of new construction or re-development on existing developed lands.
- (b) Neighborhood parks, community parks, linear parks, trails and open space areas referred to in this Section are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from the majority of the residences to be served thereby. The primary cost of those parks should be borne by the ultimate property owners who, by reason of their proximity to such parks, shall be the primary beneficiaries of such facilities.
- (c) The requirements for parkland are based in part on the standards, needs and objectives set forth in the El Paso Parks and Recreation Master Plan, routinely amended and adopted by the City Council, a copy of which shall be retained in the office of the Director of Parks and Recreation and which shall be incorporated by reference herein for all purposes.

Therefore, the following requirements and any requirements in the DSC are adopted to effect the purposes stated above and shall apply to any development within the City of El Paso, except as noted therein.

### **Section 19.20.2 Dedication Required.**

- (a) **Dedication required.** All subdivisions located within the corporate limits of the City of El Paso and the City's extra territorial jurisdiction (ETJ) shall be required to provide for the parkland needs of future residents of their subdivisions through the conveyance of fee simple title of suitable land to the City of El Paso, or through a fee in lieu of land as required by the City of El Paso.

- (1.) The land conveyed and deeded to the city shall not be subject to reservations of record, encumbrances or easements which will interfere with the use of the land for park purposes.
- (2.) Where a sub-surface interest is severed from the surface estate, retention of the sub-surface interest may not be considered an encumbrance for the purposes of this section.
- (b) **In Residential Subdivisions.** A residential subdivision shall provide for the parkland needs of the community pursuant to Section 19.20.3.
- (1.) For purposes of this Section, a residential subdivision shall include any subdivision application submitted on property where the zoning allows for single-family, two-family or multifamily development (apartments).
- (2.) This provision may be waived by the City Plan Commission where the city is provided a copy of deed restrictions or other legal instrument verifying that the property within the subdivision application or portion thereof, is restricted to non-residential uses as defined in this section. The evidence shall be provided to the City Manager or designee with the filing of the preliminary plat, and shall be reviewed by the city attorney prior to the City Plan Commission action on the preliminary plat. Failure of the subdivider to provide this information with the filing of the preliminary plat shall result in the subdivision application being considered as a residential subdivision.
- (c) **In non-residential subdivisions.** A subdivision, not otherwise classified as a residential subdivision, shall be required to provide for the parkland needs of the subdivision as provided in Section 19.20.11.
- (d) The requirement to provide parkland to the city pursuant to this Chapter shall not be satisfied using land required to be conveyed by the subdivider to the city as part of a separate legal instrument, condition, covenant, contract, agreement, sale or ordinance, except as specifically provided in Section 19.20.13.

### Section 19.20.3 Parkland Calculation

(a) **Rate.**

- (1) Where a residential subdivision application is filed, the amount of parkland required to be deeded to the city shall be as follows:
- a. **Single-Family and Two-Family Units.** One acre of parkland for every one hundred (100) dwelling units calculated as follows:

$$"x" = "y"/100$$

Where:

"x" is the amount of acres of parkland required to be deeded,  
and,  
"y" is the number of dwelling units in the subdivision.

- b. **Multifamily.** One acre of parkland for every two hundred dwelling units calculated as follows:

$$"x" = \frac{"y" \times "z"}{200}$$

Where:

"x" is the amount of acres of parkland required to be dedicated;  
and,

"y" is the gross acres of the proposed multi-family subdivision  
and

"z" is the density of the proposed multi-family subdivision

- c. **Density Calculated.** In calculating the parkland requirement for residential subdivision applications where more than one unit per lot may be allowed, density shall be determined by using the gross density permitted by the zoning classification on the property (Title 20).
- d. The City Plan Commission may waive the gross density used in the parkland calculation rate for paragraph c above when the subdivider verifies by means of deed restrictions or other legal instrument that the density permitted within the subdivision is less than the gross density required by subsection (a)(1.)a or b of this section. The evidence shall be provided to the City Manager or designee with the filing of the final plat, and shall be reviewed by the city attorney prior to City Plan Commission action on the final plat. Failure of the subdivider to provide this information with the filing of the final plat shall result in the gross density rates of this section being applied to the parkland calculation.
- e. **Mixed Use Developments.** Subdivisions that provide a mixture of residential and non-residential components shall meet the requirements of this Section in the following fashion.
1. Horizontal mixed use developments – for mixed use developments where residential and non-residential components occur in separate buildings within the same development, the residential components will meet the requirements established in section 19.20.3 above. Non-residential components will meet the requirements of section 19.20.11, fees for non-residential subdivisions.
  2. Vertical mixed use developments – for mixed use developments, where residential developments occur above or beside non-

residential development within the same building, the following requirements shall apply.

- i. If the non-residential component equals or exceeds 20% of the gross square footage of the development, parkland fees for the entire development shall be based on the non-residential fee requirements of Section 19.20.11.
- ii. If the non-residential component is less than 20% of the entire square footage of the development, parkland fees for the entire development shall be based on the number of residential units as per the requirements of Section b. above.

(b) **Types of Park Land that may be dedicated.** The following park configurations of land may be proposed by the Subdivider to meet the dedication requirements of this Section. The lands to be dedicated and the type of dedication to be provided shall be based on the affirmative recommendation of the Director of Parks and Recreation and the approval of the City Planning Commission. An alternative type of dedication may be recommended by the Director of Parks and Recreation, based on the specific nature of the subject property. Any dedication that is proposed shall meet the requirements of Section 19.20.5, Standards, except as noted in this section.

(1) **Neighborhood parks** – lands for parks that serve a neighborhood shall meet the following requirements:

- a. The size of the parkland shall be as determined by the density of the residential subdivision submitted pursuant to Section 19.20.3; provided, however, that under no circumstance shall a park site of less than one (1) acre be approved by the City Plan Commission except where the Commission finds that:
  1. The residential subdivision application is submitted as an infill development, and
  2. The subdivider demonstrates a derived public benefit based on usability and feasibility of the smaller park site, and
  3. The Director of the Parks and Recreation Department makes an affirmative recommendation on the smaller park site;

(2) **Dual Park-Pond.** Parks and drainage retention or detention ponds may be placed side by side or combined to provide for larger and more efficient park and open space lands for neighborhoods.

Conceptual cross-sections for park-pond areas are included in the subdivision standards. These conceptual drawings are intended to serve as a guideline to the designer, and modifications that meet or exceed the intent of this section are encouraged. All park-pond designs shall be approved by the Director of Parks and Recreation and the City Engineer or City Floodplain Administrator.

- a. **Park-Ponds Requirements** - For purposes of this subsection, the ponding area proposed for use as a park-pond shall require an affirmative approval for park usage by the Director of the Parks and Recreation Department, subject to the provisions below being met. Where acceptable, the pond portion of the park may count towards the required parkland dedication amount at ratio of one acre of park-pond for every one acre of required parkland dedication, subject to the following requirements being met.
1. To be considered as a park-pond, the proposed facility must be located no further than one-half mile from all residences that it is intended to serve. The street frontage for the park-pond shall be continuous along one complete side of the park or 35% of the park perimeter whichever is greater.
  2. Flat perimeter areas on the rim of the ponding basin shall be provided. These shall be a minimum of ten (10) feet in width from the edge of the pond slope to the nearest property line to allow for a trail, landscaping and pond maintenance requirements. If abutting a seven (7) foot sidewalk or trail the flat perimeter area shall be a minimum of five (5) feet. Wider and variable width areas are preferred to create a more park-like appearance.
  3. A park-pond shall have a flat contiguous park area adjacent to the detention/retention basin that is not subject to periodic inundation (10 year storm frequency). This area shall be a minimum of one-half acre in size or larger, including the area of the one closest adjacent perimeter flat zone. This area shall meet the minimum improvements requirements set forth in 19.20.5(b) as may be found to be warranted and applicable to a park-pond by the Director of Parks and Recreation. For park-ponds where the pond portion is over two and one half (2.5) acres in size, the size of the upper area shall be at least 20% of the area of the pond. This area shall be shaped to accommodate the placement of permanent park structures such as play features, multi-purpose courts and shade pavilions.
  4. Side slopes in park-ponds shall not exceed a maximum 3 to 1 horizontal to vertical slope. Flatter side slopes are recommended.
  5. If a two tier park-pond is designed, then the lower tier flat area shall not be less than 20% of the upper tier flat area.
  6. The maximum depth of the pond portion of a park-pond shall not exceed ten (10) feet for a two tier park-pond and six (6) feet for a one tier park-pond.
  7. Perimeter areas around the pond shall be planted to create an attractive buffer zone around the park-pond. Plant materials and required irrigation system(s) must be installed and operational

at the time the City accepts the facility. All irrigation and planting shall meet the Park Facilities Standards referenced in Section 19.20.5.

8. Signs shall be provided to inform the public of the dual Park-Pond purpose and to notify them of the potential safety hazard from Storm Water detention/retention.
  9. Percolation tests at the bottom of the park-pond basin shall be performed according to ASTM 5126. Storm water shall percolate within 72 hours or as may be approved by the City Engineer.
  10. A fully accessible route that meets Americans with Disabilities Act (ADA) standards to the lower park area in the basin of the pond shall be provided.
  11. Grading, irrigation and turf in accordance with 19.20.5(b)(3)d.
  12. Credit may be provided for that portion of the park-pond that exceeds the amount of parkland required to be deeded to the city pursuant to this Chapter if the credit to be derived is within the same park zone and upon the affirmative recommendation of the Director of Parks and Recreation.
- b. **Other Ponds not serving as Park Ponds** – shall meet minimum placement, setback and landscaping requirements as established by the City of El Paso Stormwater Drainage Manual.
- (3) **Linear park corridors and trail development** - Trail corridors may be dedicated and constructed by the subdivider, and may serve as credit against required parkland, subject to the following conditions being met:
- a. Where adjacent to private property lines on either side of the corridor, the trail corridor shall be a minimum of 30 feet in width.
  - b. Where the trail corridor is adjacent to a permanently preserved corridor such as a drainage channel or natural open space, the additional trail corridor width may be reduced to fifteen (15) feet. A minimum of ten (10) feet from the nearest edge of the trail adjacent to a private property line shall be maintained except where separated from such private property by a wall.
  - c. If the trail corridor is located adjacent to a street right of way, the trail corridor shall be a minimum of fifteen (15) feet in width as measured from the adjacent back of curb. The additional portion of the corridor that is outside of the street right of way and that is a minimum of five (5) feet in width shall be credited as lands meeting the parkland dedication requirements of Section 19.20.3.
  - d. Trails shall be a minimum of eight feet (8) in width. Narrower trails will not count as credit towards parkland requirements. Trail surface material shall follow the requirements of the City of El Paso Park

Development Standards. The City of El Paso may elect to contribute to the cost of the trail if a width wider than 8' is deemed appropriate for that specific location.

- e. Public access points to the corridor shall be provided at regular intervals. The linear areas adjacent to the corridor shall have open space, street ROW, or other opportunities for immediate and safe ingress/egress along at least 75% of the corridor length on one side or the other.
  - f. A zone that is a minimum of 5 feet wide along each side of the trail shall be improved with a natural non-irrigated landscape treatment, following guidelines contained in the Parks Facility Standards referenced in Section 19.20.5.
  - g. Trails may be built on power line or other utility corridors, but in cases with corridor lands whose ownership is not fully transferable to the City of El Paso, only the lands under built trails and those improved areas meeting the requirements of this subsection will count towards the park land dedication requirements of this Section. In such cases, the easement holder or right of way owner must provide legal acceptance allowing the trail to be built with free public access provided in perpetuity.
  - h. Trail standards in this ordinance and in the DSC may be modified by the City Plan Commission based upon the recommendation of the Director of Parks and Recreation.
  - i. Trail corridor lighting shall not be required where earthen trails are provided nor where corridors are located in public right-of-way and street lighting is provided. Otherwise lighting may be required by the Director of Parks and Recreation or designee in accordance with the Parks Facilities Standards, the DSC and the provisions of the Dark Skies section of Title 18.
- (4) **Open space lands and arroyos** - types of land that are noted as areas that should be preserved in the El Paso Open Space Master Plan, such as natural arroyos, may be used to meet the land dedication requirements of this Section:
- a. For purposes of this subsection, the area open space to be used in applying the reduction shall be the acreage that is deemed acceptable for preservation by the Director of the Parks and Recreation Department and approved by the City Plan Commission.
  - b. Open space lands will not be required to meet the minimum development standards of section 19.20.5.
  - c. One (1) acre of open space dedication will count as one half (1/2) of an acre of required parkland dedication.

- d. Other open space lands, such as arroyos, that exceed the parkland requirements of this section, may be accepted by the City of El Paso. The City of El Paso will assume maintenance of these areas.

#### **Section 19.20.4 Review by Director of Department of Parks and Recreation**

The Director of Parks and Recreation, or his or her designee, shall make recommendations based upon the requirements of this Section to the Planning Division at the appropriate time within the plat review process. Recommendations received pursuant to this Section shall be noted on the written report prepared by the City Manager or designee for the subdivision application, and shall be forwarded to the subdivider and the City Plan Commission, where applicable.

#### **Section 19.20.5 Standards for Deeded Parkland**

(a) **General Characteristics.** Parkland deeded to the city as provided in this Section shall meet the standards set forth below and in the DSC:

- (1) The parkland should be placed in a central location within the subdivision or subdivisions that it serves, with the expressed goal that the park is no further than one-half (1/2) mile measured by walking distance from any residence within the subdivision that it serves.
- (2) Where the subdivision is an initial phase of multiple phases, the park may be located so that it is accessible to the future phases, provided that the park meets the goal established in (1) above.
- (3) Park lands submitted for dedication shall be located so that users are not required to cross arterial roads to access the park site.
- (4) The park land shall have a minimum of one hundred feet of continuous frontage contiguous with a public street that provides direct access to the park site, except where approved by the Director of the Parks and Recreation Department.
- (5) The placement of rear or side lot lines adjacent to the park boundaries should be minimized. Continuous street frontage around the edges of the park site is required, except where approved by the Director of Parks and Recreation.
- (6) The parkland may be located adjacent to school sites or ponding areas where possible to facilitate shared facilities.
- (7) When parkland is deeded to the city as required by this Chapter, the area of the park shall be calculated from the nearest property line or street right of way line, and not from the existing or proposed curb line of an

adjacent street, unless park features are incorporated into the parkway, subject to an affirmative recommendation by the Director of Parks and Recreation and approval by the City Plan Commission. Sidewalks and signs shall not count as park features that allow the inclusion of the parkway area as part of the park area calculation.

- (8) Where possible, and as approved by the Director of the Parks and Recreation Department, parkland shall be designed and located within a subdivision to allow for an extension or connection to a public park or other public recreational facility within an abutting subdivision.

**(b) Minimum improvements for lands to be dedicated as parklands.** Parkland deeded to the city shall meet the following minimum improvements described by this subsection.

- (1) The subdivider shall indicate the proposed parkland improvement(s) within the subdivision improvement plans as required in Section 19.08.080.
- (2) Construction of the required minimum parkland improvement(s) shall be in accordance with the approved subdivision improvement plans, and shall be completely installed and constructed by the subdivider within the time period specified for construction of subdivision improvements in this Chapter.
- (3) An improved park shall, at a minimum, include the following:
  - a. Paving frontage, curbing, and gutter for all street frontage abutting the outside perimeter of the parkland;
  - b. Utility (water, sanitary sewer and electricity) extensions to the perimeter of the park at a location indicated by the Director of Parks and Recreation and that are consistent with published EPWU Rules.
  - c. An accessible route installed adjacent to the curb on all street frontage abutting the outside perimeter of the parkland of a minimum width and construction to provide accessibility to individuals with disabilities as provided in the subdivision improvement design standards. The sidewalk alignment and width shall be approved by the Director of Parks and Recreation.
  - d. Grading, automatic irrigation and turf within the parkland boundaries shall be installed prior to the acceptance of the proposed parkland submittal. The design and installation shall be approved by the Director of the Parks and Recreation Department. The City Plan Commission may, upon an affirmative recommendation from the Director of the parks and recreation department, allow parkland to remain undisturbed in its natural state.

- e. One age appropriate play structure unit, from an approved Park Department list of acceptable alternatives, including an appropriate safety surface that meets industry requirements.
  - f. A minimum of two accessible picnic tables on concrete pads.
  - g. Perimeter lighting along adjacent public street rights of way
  - h. Where open space lands to be left in an undisturbed state are accepted as required parklands, grading, automatic irrigation and turf establishment requirements shall be waived.
  - i. Facilities and improvements provided by a subdivider on lands dedicated as parkland shall be designed and installed to meet the minimum standards of this ordinance, the DSC and the Parks and Recreation Department as established in the Parks Facilities Standards, a copy of which is maintained by the Director of the Parks and Recreation Department. The Parks Facilities Standards shall be approved by the City Plan Commission and the City Council. The Parks Facilities Standards may be changed from time to time, but each change shall be approved by the City Plan Commission and the City Council.
- (4) The Subdivider may choose to submit an alternative development proposal for the park land to be dedicated. The alternative proposal shall create a suitable park-like character and meet the intent of this ordinance and the direction provided by the City's Parks and Recreation Master Plan and Open Space Plan. The proposal will indicate the proposed alternative park facilities, their locations, and the cost to install such facilities. The proposal shall require an affirmative recommendation by the Director of Parks and Recreation and approval by the City Plan Commission. The cost of such facilities shall at a minimum be equal to that of the basic park infrastructure listed in items a through i above. Upon approval of the proposed alternative park development proposal, the Subdivider may authorize preparation of construction documents for neighborhood park development.
- (5) The Subdivider shall be required to submit development construction plans that conform to this ordinance, the DSC and the Parks and Recreation Department design, construction and specification standards. The Parks and Recreation Department will review the construction documents for compliance with City park construction requirements. The developer must agree to standard City construction inspections of the park improvements.
- (c) **Exceptions.** For purposes of this section, off-site dedications accepted pursuant to Section 19.20.8 shall not be required to satisfy the requirements of subsection (3) of this section at the time of acceptance of the deed by the city. The city shall require the approval of a development agreement as a condition of acceptance of an off-site dedication, requiring such improvements at the time of

subdivision recording by the property owner who deeded the parkland, or a subsequent purchaser.

### Section 19.20.6 Exclusions from Dedication Requirement

**Exclusions.** The following shall be excluded from the calculation for parkland dedication. In all instances, the burden of proof shall be on the subdivider to demonstrate that the plat meets the requirements of this section:

- (1) A residential replat of an area where the density has not been increased from the original subdivision, as evidenced by the original subdivision and replat. In the case of a replat where parkland was not originally provided, the parkland requirements shall prevail.
- (2) A nonresidential replat where easements or rights-of-way are eliminated, added or changed from the original subdivision, as evidenced by the original subdivision and replat; or
- (3) A nonresidential replat which changes the lot location or design, but where the acreage has not been increased, as evidenced by the original subdivision and replat; or
- (4) A replat which changes the use of the original subdivision from residential to nonresidential, and the fees paid (or the equivalent fees which would have been paid based on parkland dedicated) on the original subdivision are more than or equal to the fees required on the replat; or
- (5) A replat which changes the use of the original subdivision from nonresidential to residential, and the fees paid on the original subdivision are more than or equal to the fees required on the replat; or
- (6) All property within a subdivision which is zoned planned mountain development district (PMD) whether for residential or nonresidential uses, as evidenced by the official zoning map; or
- (7) Land shown within an amending subdivision where density is not increased, as evidenced by the original and amending subdivisions, or
- (8) Land shown within a subdivision, whether residential or nonresidential, which is designated for use as a public facility.

### Section 19.20.7 Deed Conveyance

**Subdivision Dedication.** Parkland to be conveyed as part of a residential subdivision application shall be designated as city property on both the preliminary and final plats. At the time the recording plat is submitted, the subdivider shall deliver to the Planning Division the deed conveying fee simple title of all parkland shown on the final plat approved by the City Plan Commission. The city shall join as a signatory on the subdivision, but shall have

no responsibility to provide any public improvements shown within the approved final plat beyond the general responsibilities the city has to improve and maintain all of its parks.

### Section 19.20.8 Off-Site Dedication of Parkland

- (a) **Application.** Where a land study is submitted by a subdivider pursuant to Section 19.2, the city or the subdivider may request that an off-site dedication of parkland be accepted within the corporate limits only. An application for off-site dedication of parkland shall be filed by a subdivider with the City Manager or designee.
- (b) **Credit Applicability.** Parkland to be deeded as part of an off-site dedication shall be entirely within the boundaries of the same park zone as the proposed subdivision. Park zone boundaries are designated by the El Paso Parks and Recreation Master Plan and are published by the City of El Paso Parks and Recreation Department.
- (c) An off-site parkland dedication shall be an option available to the subdivider where parkland credits derived are then used to reduce by an equivalent amount any subsequent parkland requirement generated by the submission of phased residential subdivisions. The credit shall be applied to residential subdivisions submitted from within the applicable park zone. Where a parkland dedication straddles two park zones, credits shall be allowed within either park zone if approved by the City Plan Commission, upon an affirmative recommendation of the Director of the Parks and Recreation Department.
- (d) **Formula.**

- (1) For purposes of determining the credit, the following procedure shall be used:

$$a - b = c$$

Where:

"a" is the amount of parkland dedicated or deeded to the city expressed in total acres (credit);

"b" is the amount of subsequent parkland acreage required to be deeded to the city pursuant to Section 19.20.3 for a residential subdivision, based on the parkland calculation rates in effect at the time of the submittal;

"c" is the amount of parkland credit available from the parkland dedicated or deeded. If a reduction exceeds the credit, the difference shall be the amount of required parkland to be dedicated or deeded to the city after reduction.

- (e) In no instance shall a parkland credit be from the value of the land dedicated or deeded in terms of fees it would have generated, or the market value of the land

expressed in dollars. This parkland credit option may be exercised by the subdivider who dedicated or deeded the parkland to the city, or may be transferred to a subsequent purchaser of land within the applicable park zone(s). The subsequent purchaser must submit written proof of such a transfer to the City Manager or designee. The City Plan Commission shall approve, upon recommendation by the Director of the Parks and Recreation Department, the residential subdivision(s) to which the credit shall be applied.

### **Section 19.20.9 Provision for Private Park Facilities and Private Open Space**

- (a) **Private park facilities.** Where park areas and recreational facilities are to be provided in a proposed subdivision, and where such areas and facilities are to be privately owned and maintained by the future residents of the subdivision or by the owner of a rental facility, these areas may satisfy a portion of the land or fee requirements of this Section as follows:
- (1) **In single family or duplex developments,** the required parkland or fee in lieu of land may be reduced by providing private parks and facilities that meet the requirements of subsection (b.) below.
    - a. Up to 100% of the land requirement may be met by providing private parkland, where every one acre of private parkland shall count as one half (1/2) acre of the required parkland dedication.
    - b. The value of private park facilities that meet the requirements of subsection (b) below shall provide a 50% credit towards the minimum required land and facility development.
    - c. The City Plan Commission, upon the recommendation of the Director of Parks and Recreation, may accept the remainder of the required parkland dedication, if the entire required dedication is not met, in parklands that are publicly accessible to the public at large, in improvements to existing parkland in the same park zone, or in the form of a fee in lieu of land.
  - (2) **In multi-family developments,** the required parkland or fee in lieu of land may be reduced by providing private recreation facilities that meet the requirements of subsection (b.) below.
    - a. Up to 100% of the parkland requirement may be met by providing private parkland, where every one acre of private parkland shall count as one half (1/2) acre of the required parkland dedication.
    - b. The value of private park facilities that meet the requirements of subsection (b) below shall provide a 50% credit towards the minimum required land and facility development.

- c. The City Plan Commission, upon the recommendation of the Director of Parks and Recreation, may accept the remainder of the required parkland dedication, if the entire required dedication is not met, in parklands that are publicly accessible to the public at large, in improvements to existing parkland in the same park zone, or in the form of a fee in lieu of land.
  - d. Private park facilities for multi-family may include swimming pools and recreational buildings for fitness or community gatherings.
- (b) For purposes of this subsection, the private facility shall qualify for a reduction if the following standards are met.
- (1) That the private ownership and maintenance of such areas and facilities are adequately provided for by recorded written agreement, conveyance, or restrictions.
  - (2) That the minimum size of one acre is met or exceeded. Where the minimum size is not feasible, the fee in lieu of land requirements of Section 19.20.11 shall apply.
  - (3) That the use of such areas and facilities are restricted for park and recreational purposes by a recorded covenant, which runs with the land in favor of the future owners of property and which cannot be defeated or eliminated without the consent of the City Council.
  - (4) That such areas and facilities are reasonably similar to what would be required to meet public park and recreational needs of this Section, taking into consideration such factors as size, shape, topography, geology, access and location.
  - (5) Open turf areas in multi-family developments must be a minimum of 5,000 square feet in size, with a minimum average width of fifty feet (50').
  - (6) Unpaved lands to be dedicated must be improved with turf or desert landscaping and irrigation by the subdivider.
  - (7) Such areas and facilities for which reductions towards the required parkland dedication shall be permitted include improvements for the basic needs of a local park. These may include:
    - a. Play structures for ages 2 to 5, including an appropriate safety surface that meets industry requirements.
    - b. Play structures for ages 6 to 12, including an appropriate safety surface meeting industry requirements.
    - c. Multipurpose court.

- d. Trails not previously included as part of the parkland requirements – trail must be a minimum of 8' wide to qualify for credit.
  - e. Picnic areas with a minimum of three tables on concrete pads, with BBQ facilities and trash receptacles.
- (8) Facilities that are part of a multiple condominium ownership or rental development such as privately owned swimming pools, landscaped areas, and recreation buildings for fitness or community gatherings shall not receive credit toward the parkland requirements of this Section.

### Section 19.20.10 Provision for Bonus Reductions for Additional Land or Facilities on New or Existing Public Parklands

- (a) **Bonus Reduction Applicability.** The City Plan Commission, upon an affirmative recommendation of the Director of the parks and recreation department, may reduce the amount of parkland to be deeded to the city or reduce the fees in lieu of parkland to be paid to the city as part of a subdivision application where additional facilities beyond the minimum required improvements are provided. The percent reduction proposed by affirmative recommendation of the Director of the parks and recreation department, for single-family, two-family or multi-family development, shall depend upon inspection and approval by city personnel and municipal code compliance of existing and new facilities. In no case shall credits reduce the required park size by more than 25% of the required land dedication, and in no case shall the credit reduce the park below the required minimum park size of one acre.

- (1) Such areas and facilities for which reductions shall be permitted include additional improvements for the basic needs of a local park. These may include:
- a. Play structures for ages 2 to 5, from an approved Park Department list of acceptable alternatives, including safety surface and perimeter rock wall.
  - b. Play structures for ages 6 to 12, from an approved Park Department list of acceptable alternatives, including safety surface and perimeter rock wall.
  - c. Multipurpose court.
  - d. Trails not previously included as part of the parkland requirements – trail must be a minimum of 8' wide to qualify for credit.
  - e. Picnic areas with a minimum of three tables on concrete pads, with BBQ facilities and trash receptacles.

Privately owned swimming pools, landscaped areas, and recreation buildings for fitness or community gatherings shall not receive credit toward the parkland requirements of this section.

- (2) Up to a twenty-five percent (25%) reduction in the minimum parkland dedication requirement may be permitted if additional recreational

improvements as shown above are made to the proposed parkland within the subdivision application that generates the required conveyance. In no case shall the park size be reduced below the required minimum park size of one acre.

- (3) Up to a twenty-five percent (25%) reduction in the park development requirements (grading, turf, and irrigation) may be permitted if the park size is increased by up to 25%.
- (4) Up to a one hundred percent (100%) reduction in both land and fees in lieu of land from the initial parkland dedication requirement may be permitted for additional recreational improvements to existing parkland within the same park zone as the subdivision application that generates the required conveyance.
- (5) The total bonus reduction shall not exceed 50% of the overall requirement.
- (6) Under no circumstance shall a bonus reduction be approved for required improvements to parkland as provided in Section 19.20.5(C), nor shall a bonus reduction be approved for recreational improvements to parkland which are required to be provided by the subdivider as part of a separate legal instrument, condition, covenant, contract, agreement, sale or ordinance.

(b) **Bonus Reduction Calculation.** A bonus reduction approved under this section shall be determined according to the following procedure:

(1) Glossary:

- Parkland Dedication Fee/Unit (A)
- Bonus Reduction (B)
- Cost of Park Improvements (C)
- Number of Units (D)
- Total Parkland Dedication Fee (E)

(2) Formula for Calculation:

- a.  $A \times D = E$
- b.  $C - E = \text{Difference between Fee and Improvements (F)}$
- c. 
$$\frac{F}{A} = \frac{G}{100}$$
- d. Acreage bonus

(3) Example Calculation: Request for bonus reduction on a \$488,872.80 park improvement in a 356 unit subdivision.

- a.  $\$1,370 \times 356 = \$487,720$
- b.  $\$488,872.80 - \$487,720 = 1152.80$
- c. 
$$\frac{\$1152.80}{\$1370} = \frac{.841}{100}$$
- d. .008 acres

- (c) **Excess Bonus Reduction.** Where the bonus reduction applied for recreational improvements made to the parkland within the subdivision application, or to parkland within the same park zone as the subdivision application, exceeds the required conveyance, the balance of the bonus reduction may be offset against the minimum parkland development requirements to be deeded to the city on any subsequent subdivision application(s) submitted by the same subdivider within the same park zone. In no case shall the credit for a subsequent subdivision exceed a 50% overall reduction in the parkland dedication requirements, and the amount of park land required for any one subdivision shall not be reduced by more than 25%.
- (d) **Validation of Costs.** The subdivider shall provide documentation to the City Manager or designee at the time of final plat filing sufficient to establish the validity of the estimated cost(s) that will be used to determine the bonus reduction under this section. The documentation shall accompany the request for a bonus reduction. The Director of the Parks and Recreation Department shall evaluate the documentation submitted and shall approve the value prior to any bonus reduction given under this section. In cases where the estimated cost(s) of the improvement(s) is disputed, the value shall be as finally determined by the Director of the Parks and Recreation Department.
- (e) **Improvements Completion Schedule.** A completion schedule for improvements proposed by a subdivider shall be submitted to the City Manager or designee at the time the final plat is filed. Improvement(s) to be provided by a subdivider pursuant to this section shall be shown on the subdivision improvement plans as required in Section 19.2. Construction of the improvement(s) shall be in accordance with the time periods required in Section 19.2. Failure to complete the improvement(s) within the approved schedule shall be a violation of this Chapter.

### Section 19.20.11 Fee in Lieu of Parkland Dedication

(a) **When Applicable.**

- (1) **Residential Subdivisions.** The City may require a cash payment in lieu of parkland dedication under the following circumstances:
- a. When an area of parkland less than one (1) acre is required to be dedicated, or less than two (2) acres if there is an existing park within one-half mile, and upon the recommendation of the Director of Parks and Recreation and the City Plan Commission;
  - b. Where the Director of Parks and Recreation determines that the park needs of the subdivision would be better served by developing other parks in the same park zone.

- c. In instances where the parkland to be dedicated does not meet the standards set forth in this Section.
  - d. In instances where the required parkland dedication meets or exceeds two (2) acres, the City Plan Commission, upon the recommendation of the Director of Parks and Recreation, may require a reduction in land dedication of up to 25% and payment of the balance of the required dedication in improvements to the site or in fees in lieu of land dedication.
  - e. When the City accepts a combination of the following: parkland dedication, cash payment in lieu of land dedication, or bonus reductions received pursuant to Section 19.20.9.
- (2) **Nonresidential Subdivisions.** The subdivider shall be required to pay fees in lieu of the dedication of parkland dedication for all nonresidential subdivisions applications. Where the Director of Parks and Recreation recommends that the park needs of that park zone would be better served by preserving existing open space lands on the property or by developing other parks in that park zone, the following alternatives may be used.
- a. Where open space lands that meet the types noted for preservation in the City of El Paso Open Space Master Plan occur in the non-residential subdivision, the city may accept a dedication of open space lands in lieu of, or in combination with the payment of park fees. The value of the land to be dedicated shall be equivalent to the fee amount required for that subdivision, and the proposed dedication must be at least one (1) acre in size.
  - b. An amount equal to the fee required for the non-residential subdivision may be used by the subdivider to provide additional park facilities in an existing or proposed park within the existing park zone. The types of facilities to be provided and the proposed location for those facilities shall be subject to approval by the Director of Parks and Recreation.
- (b) **Fee Calculation.** Where the city requires or accepts payment of cash in lieu of the dedication of parkland, such payment shall be equivalent to the following:
- (1) **Residential Subdivisions.**
    - a. Single-family and two-family: \$1,370 dollars per dwelling unit
    - b. Multifamily: \$680 dollars per dwelling unit.
  - (2) **Nonresidential Subdivisions.** One Thousand dollars (\$1,000) per gross acre multiplied by the number of acres rounded to two decimal places, with a minimum of Three hundred and Thirty Three dollars (\$333) for a subdivision of less than one-third acre.

- (3) These fees shall be indexed to any increase in the national Consumer Price Index (CPI) and adjusted no less frequently than every three (3) years.
- (c) **Form Tendered.** A cash payment made pursuant to this section shall be tendered in the form of a cashier's check, payable to the City of El Paso. The cashier's check shall be submitted to the City Manager or designee and shall accompany the recording plat submission.
- (d) **Refunds.** Under no circumstance shall fees received in lieu of parkland dedication required by this Section be refunded to a subdivider, except as provided in 19.20.12 (f).
- (e) In a subdivision where the density calculation for parkland results in a park site of less than one (1) acre and the developer has paid fees in lieu of dedicating parkland, should the developer, within a period of three years following the recording of the initial subdivision, submit a plat for development of land contiguous to the land in which park land fees were paid, the City shall have the option of refunding to the developer an amount equivalent to those parkland fees paid for the previous development and calculating the parkland requirements for the new subdivision plat based on the density for both the previously submitted subdivision plat and the new subdivision plat. The calculation shall be based upon the parkland dedication requirements in effect at the time of each subdivision plat submittal. For purposes of this Subsection, a refund shall be made from park fees collected and available from within the applicable park zone for each subdivision.

### Section 19.20.12 Parkland Fees Special Fund

- (a) **Fund Established.** The city shall establish a special fund for the deposit of all sums paid in lieu of parkland dedication pursuant to this Section. The city shall account for all sums paid in lieu of parkland dedication with reference to the individual subdivisions involved, and all sums received shall be committed by the city within three years from the subdivision recordation.
- (b) **When funds are considered to be committed.** For purposes of this section, funds shall be considered committed:
- (1) When funds are encumbered for expenditure on equipment and materials;
  - (2) When funds are set aside under an earnest money agreement for the purchase of parkland;
  - (3) When funds are to be awarded under a bid in process; (or)

- (4) When funds encumbered are not expended because of delays by reason of strikes, court action or any similar impediment which renders it impossible or illegal to spend the money.
- (c) **Time Extensions.** Where the sums cannot be committed within the initial three-year time period, the Director of the Parks and Recreation Department may request time extensions for expenditure of the sums from the City Plan Commission in one-year intervals; except that no more than two (2) one-year time extensions may be granted by the City Plan Commission. The extension request(s) shall be submitted in writing to the City Manager or designee sixty days prior to the expiration period for sums to be committed by the city, and shall include a detailed justification for the extension request(s).
- (d) **Use of Funds.** Funds may be used for either acquisition or development, or both, of public parkland or other recreational facilities. In no case shall the funds be used for routine park or other recreational facility maintenance.
- (e) **Where funds can be used.**
- (1) For residential subdivisions. Where fees are received in lieu of parkland dedication in residential subdivisions, the funds shall be spent on a neighborhood park within the boundaries of the subdivision that generated the funds, or the applicable park zone, or in any adjacent park zone.
- Provided, however, that the City Plan Commission may authorize the expenditure of sums received in lieu of parkland dedication outside the applicable park zone, as part of the final plat approval, where infill development is proposed within older neighborhoods of the city, and where a park or other recreational facility is not available within the applicable park zone. In these instances, the City Plan Commission shall authorize the expenditure of the sums at the nearest appropriate park or other recreational facility from the proposed subdivision as recommended by the Director of the Parks and Recreation Department.
- (2) For nonresidential subdivisions, fees received in lieu of parkland dedication shall be spent on a neighborhood park within the applicable park zone of the subdivision, or on a community or regional park within adjacent park zones in each direction of the subdivision, as determined by the Director of the Parks and Recreation Department.
- (f) **Non use of funds.** If funds are not committed within the required time period and any approved time extensions, the subdivider who provided the funds in lieu of the parkland dedication shall, upon written request, be entitled to a full refund within one hundred eighty days of the last day of the required period of moneys paid.
- (g) **Accountability.** The City Manager or designee shall maintain a written record of all moneys received in lieu of parkland dedication, including, at a minimum, the

total amount of parkland fees received, the subdivision generating the fees, the subdivision or park zone where moneys are to be spent, the subdivider, the representative district, the date moneys were received, and the expiration date for moneys to be committed.

The Director of the Department of Parks and Recreation shall maintain a written record of expenditures including, at a minimum, the balance after expenditure(s), an itemized statement of expenditure(s), and the parkland description where moneys are spent. These records shall be distributed as an annual progress report on each January to the City Plan Commission and the City Council.

### **Section 19.20.13 Applicability**

(a) Subdivision Related Dedication.

(1) Submittal received on or after June 11, 1996.

- a. Subdivision. A subdivision application filed with the City Manager or designee on or after June 11, 1996 shall be subject to the parkland dedication regulations as herein codified.
- b. Off-Site Dedication. Parkland proposed as an off-site dedication which application is filed with the City Manager or designee on or after June 11, 1996 shall be subject to the parkland dedication regulations as herein codified.

(2) Submittal Prior to June 11, 1996, Pursuant to Ordinance No. 9645, enacted February 28, 1989.

a. Subdivision.

1. Application in Process. A subdivision application filed as a preliminary plat, preliminary/final plat, final plat, correction plat or replat with the City Manager or designee before June 11, 1996 shall be subject to the parkland dedication regulations contained in Ordinance No. 9645 enacted on February 28, 1989, except that this provision shall not apply to any application which expires before the subdivider obtains final approval, disapproval or conditional approval of the plat or replat.
2. Recorded Plat. Parkland deeded to the city as part of a recorded subdivision before June 11, 1996 shall be subject to the parkland dedication regulations contained in Ordinance No. 9645 enacted on February 28, 1989.

b. Off-Site Dedication.

1. Application in Process. Parkland proposed as an off-site dedication which application was filed with the City Manager or designee before June 11, 1996, and where the city accepts the off-site dedication after the effective date of the ordinance codified in this Section, shall be subject to the parkland

dedication regulations contained in Ordinance No. 9645 enacted on February 28, 1989, except as follows:

- i. When a reduction option is exercised by the property owner to a subsequent parkland requirement within the same park zone, the reduction shall be based on the parkland calculation rates and densities in effect at the time a subdivision is filed with the City Manager or designee. The reduction shall be on an acreage basis, and shall not be from the value of the land dedication in terms of fees it would have generated, nor the market value of the land expressed in dollars, unless otherwise provided in the agreement by which the city accepted the off-site dedication.
- ii. The area of the parkland deeded to the city as an off-site dedication shall not include the area to the centerline of a proposed public accessway to be dedicated through a subsequent subdivision, unless otherwise provided in the agreement executed by the city accepting the off-site dedication, or unless a public accessway fronting the parkland is dedicated as part of the off-site dedication.

2. Off-Site Dedication Accepted by City. Parkland accepted by the city as an off-site dedication before June 11, 1996 shall be subject to the parkland dedication regulations contained in Ordinance No. 9645 enacted on February 28, 1989, except as follows:

- i. When a reduction option is exercised by the property owner to a subsequent parkland requirement within the same park zone, the reduction shall be based on the parkland calculation rates and densities in effect at the time a subdivision is filed with the City Manager or designee, and the reduction shall not be from the value of the land dedication in terms of fees it would have generated, nor the market value of the land expressed in dollars, unless otherwise provided in the agreement by which the city accepted the off-site dedication.
- ii. The area of the parkland deeded to the city as an off-site dedication shall not include the area to the centerline of a proposed public accessway to be dedicated through a subsequent subdivision, unless otherwise provided in the agreement executed by the city accepting the off-site dedication, or unless a public accessway fronting the parkland is dedicated at the same time as the off-site dedication.

(3) Dedication of Parkland Prior to Ordinance No. 9645, enacted February 28, 1989. Where a subdivider dedicated parkland through an approved and valid land study (concept plan) prior to Ordinance No. 9645, that dedication may

be reduced from the amount of parkland required in this Chapter for any subdivision application filed within the original land study (concept plan) boundaries of the then-approved park zone. Where a reduction option is applied by the property owner to a subsequent parkland requirement, the reduction shall be based on the parkland calculation rates and densities in effect at the time a subdivision application is filed with the City Manager or designee, and shall be on an acreage basis. A reduction shall not be from the value of the land dedication in terms of fees it would have generated, nor the market value of the land expressed in dollars, unless otherwise provided in an agreement executed by the city accepting the parkland.

- (b) **Dedication through Non-Subdivision.** Where the city accepted or required parkland which was not part of a subdivision-related dedication, and which was executed through an approved development agreement or other legal instrument prior to the effective date of the ordinance codified in this Section, that dedication shall not be subject to the reduction option for a subsequent parkland requirement generated within a subdivision as provided in this title, unless otherwise provided in the agreement or other legal instrument executed by the city, or unless the agreement in which the park committed was executed prior to February 28, 1989. Where authorized, a reduction shall be based on the parkland calculation rates and densities in effect at the time a subdivision is filed with the City Manager or designee. The reduction shall not be based on the value of the land dedication in terms of fees it would have generated, nor the market value of the land expressed in dollars.
- (c) **Documentation Required.** Where a reduction in the parkland dedication requirement of this Chapter is requested on the basis of parkland dedicated prior to June 11, 1996, the subdivider shall submit to the City Manager or designee the proper evidence to demonstrate that the provisions of this section governing applicability are applicable. The evidence may include, but shall not be limited to the following: a copy of the filed deed conveying fee simple title to the parkland to the city, or other legal documentation demonstrating that the parkland is required to be dedicated to the city; a copy of an approved and valid land study (concept plan), where applicable; and a copy of the park zone approved as part of an off-site parkland dedication, where applicable. If a subdivider fails to submit the proper evidence as herein required, the requirements of this Chapter as enacted on June 11, 1996 shall apply to all land within the boundaries of the original land study (concept plan) or approved park zone not previously platted, and no credit shall be given for previously dedicated parkland. (Ord. 13111 § 1 (part), 1997)

## **Section 19.21 – Sidewalks**

### **Section 19.21.1 Purpose and Applicability**

- (a) **Purpose.** Sidewalks are required as a part of subdivision Plat approval as outlined within this Section 19.21 and in Title 13, Chapter 04 to help the City of El Paso achieve the following:
- (1) Promote the mobility, health, safety, and welfare of residents, property owners, and visitors to the City of El Paso and to implement objectives and strategies of the El Paso Comprehensive Plan.
  - (2) Improve the safety of walking by providing separation from motorized transportation and improving travel surfaces for pedestrians.
  - (3) Improve public welfare by providing an alternate means of access to transportation and social interaction, especially for children, other citizens without personal vehicles, or those with disabilities.
  - (4) Facilitate walking as a means of physical activity recognized as an important provider of health benefits.
  - (5) Establish minimum criteria for the development of sidewalks as a part of the pedestrian element of the transportation system within the City and its extraterritorial jurisdiction (ETJ).
- (b) **Applicability.** These requirements shall apply to all development within the City and its ETJ,
- (c) **Exceptions.** The City Plan Commission may approve an exception to the requirement for sidewalks on individual streets or within subdivisions:
- (1) In existing single-family residential neighborhoods where sidewalks are not present and have not historically been provided or comply; or
  - (2) On local streets within an approved subdivision where all the lots provide a minimum one-half acre lot area and the adjoining properties have no sidewalks; or
  - (3) On mountain residential and divided mountain residential streets within an approved Mountain Development subdivision; or
  - (4) On local streets within an approved planned unit development where pedestrian access is provided within the approved subdivision through an alternative sidewalk design not installed within the street right-of-way; provided, however, that an easement may be required by the City Manager or designee to provide for the installation of traffic signage and signalization, utility services, neighborhood delivery and collection box units, or other similar facilities; or

- (5) On local streets within an approved subdivision which meet all of the following criteria as determined by the City Plan Commission:
  - a. A characteristic of the neighborhood is that no sidewalks have been required to date, and
  - b. The subdivision adjoins or lies within a neighborhood in which buildings or structures have been constructed on at least fifty percent of the lots within the neighborhood, and
  - c. The type of subdivision and intensity of land use is compatible with the character of the neighborhood; or
- (6) In projects where the cost of establishing sidewalks or walkways would be excessively disproportionate to the cost of the associated roadway construction; or
- (7) On streets where a street construction project, whether local, state or federal, has been awarded and the project includes construction of the sidewalks; or
- (8) On local streets within an approved subdivision where a determination has been made by the City Manager or designee that the sidewalks will impede drainage; or
- (9) In areas with severe topography or other natural constraints that will constrain proper implementation of this Section of this Chapter, or
- (10) On local streets, in situations inherently adverse to pedestrian activity, such as harmful noise, dust creation, and high volume truck traffic, and on local streets in certain areas, such as agricultural, heavy commercial and industrial developments.
- (11) These requirements shall apply to both public and private streets.
- (12) Where there is a conflict between the requirements of Title 13.04 and this Section, the more restrictive shall generally apply and be required as part of the subdivision Plat approval unless a waiver or exception is granted in accordance with Section 19.48.

### Section 19.21.2 General Requirements

**General Requirements.** The following general requirements and the requirements contained in Table 19.15-3 shall apply to the provision of all sidewalks throughout the City and ETJ.

- (1) Standards Not Otherwise Specified. Where facility standards and requirements are not otherwise specified within this Section, the design of pedestrian facilities shall follow the City's Code, Title 13.04, the DSC and other City Sidewalk Design Standards and applicable State and Federal laws and regulations.

- (2) Maintenance. All sidewalks, sidewalk amenities, and landscaping in the right-of-way shall be maintained by the adjoining property owner unless otherwise specifically provided for by public policy.
- (3) Location and Width of Sidewalks. Unless noted otherwise:
- a. Sidewalks shall have a minimum clear path width of a minimum of five feet (5') on local streets in all zoning districts primarily intended for single-family residential development when located adjacent to the property line. Sidewalks located next to the curb along local streets shall be a minimum five feet (5) in width. Sidewalks along arterials shall have a minimum of 5 feet in width.
  - b. Sidewalks shall have a minimum clear path width of a minimum of five feet (5') in all other locations.
  - c. Sidewalks in areas determined to be high pedestrian traffic areas or pedestrian oriented developments by the CPC may be required to be wider than the minimum widths listed herein by the CPC.
  - d. Sidewalks shall be located in existing areas to match the width and location of existing walks of the block in which they are located. Vacant blocks shall comply with the sidewalk requirements of this ordinance.
  - e. Sidewalks shall not be located next to the curb on collector or arterial streets except when an exception is approved by the CPC or designee at the time of subdivision Plat approval. Such exception shall be in accordance with Section 19.48 and due to actual physical or topographic constraints. Sidewalks on TXDOT facilities shall be as approved by TXDOT.
  - f. Sidewalks may be required to improve connectivity between subdivisions, to schools, parks, bus stops and retail areas by the CPC at the time of plat approval.
  - g. The CPC may approve alternative sidewalk design and locations at the time of plat approval including meandering or curvilinear sidewalks provided such design and location meets the intent of this ordinance.
- (4) Timing of Improvements. The timing of sidewalk construction shall be as required by this Section and Title 13.04, unless a Developer Agreement between the property owner and the City provides for alternative timing for construction or Security has been provided in accordance with this ordinance.
- (5) Internal Pedestrian Circulation. In addition to sidewalks within the right-of-way, internal pedestrian circulation shall be provided in new development or redevelopment serving any non-residential and at any governmental facility, school, church, or other place of public assembly. Sidewalks shall be installed to connect all buildings to one another and to parking areas and to connect the development to the public street system. All such sidewalks shall be protected from encroachment by parked vehicles.

- (6) Curb ramps shall be provided within a street right-of-way wherever an accessible route for pedestrians (sidewalk or pedestrian way) is required. The design and construction of curb ramps shall be in accordance with the DSC and shall comply with the Texas Accessibility Standards
- (7) Compliance with DSC. Sidewalks shall be constructed in compliance with the standards in the City of El Paso DSC and Title 13.04.

### Section 19.21.3 Sidewalk Requirements for New Streets

- (a) **Sides of the Street.** Sidewalks shall be required on both sides of all new streets except in accordance with Title 13.04:
- (b) **Timing of Improvements.**
  - (1) Sidewalks shall be provided by the developer at the time of road construction on all new freeway frontage roads unless disallowed by TXDOT, arterial streets, or collector streets, except on individual lots fronting on or siding up to such street. The developer may choose to provide Security in accordance with this ordinance and to delegate the requirement to construct such sidewalks to the purchaser of a lot or their builder as a part of the building permit for a period of two years from the date of acceptance of the adjacent street. However, at the end of the two year time period, the developer shall make arrangements to complete the missing sidewalks or in lieu of such arrangements, the City may utilize the Security to complete the sidewalks. As sidewalks are completed during the two year period, the developer may request the partial release of Security for the completed portions in accordance with this ordinance.
  - (2) Sidewalks on streets with lots fronting on them shall be provided by the builder as part of the building permit and shall be constructed and inspected prior to final occupancy of the structure. The sidewalk shall match the construction plans for the development and/or the sidewalks on either side of the lot in regards to location and width.
  - (3) Sidewalks shall be installed by the developer concurrently with other street improvements on streets where streets abut non-development areas such as common areas, drainage features, utility rights-of-way, or publicly owned areas.
  - (4) All required sidewalks by the developer in new subdivisions must be constructed within five (5) years of Final Plat approval unless a different schedule is specifically authorized in writing by the City Manager, or designee for the purpose of coordination with other capital improvement activities.
- (c) **Financial Guarantee.** A developer of a new subdivision may contribute the projected cost of the sidewalk construction into an escrow fund or through other form of financial guarantee to delay the time of construction of the sidewalk according to procedures within this Chapter and Title 13.04.

### Section 19.21.4 Sidewalk Requirements for Existing Streets

- (a) **Sides of the Street.** Sidewalks shall be required on both sides of existing collector streets, arterial streets, and the external sides of the frontage roads of freeways.
- (b) **Location.** Sidewalks shall be required along block faces of existing local streets where redevelopment is occurring in any of the following categories or combinations of categories:
  - (1) The Central Business District designated by the El Paso Comprehensive Plan.
  - (2) Designated pedestrian routes in a neighborhood plan, corridor plan, or other small area plan adopted by the City of El Paso.
  - (3) Locations that would connect existing or otherwise required sidewalks by closing gaps of less than two hundred and fifty feet (250').
  - (4) Locations in which an adjacent property has a public sidewalk along the same block face.
  - (5) Street frontages in all developments except the following:
    - a. Developments intended primarily for single-family residential purposes and where sidewalks are not present.
    - b. Along local and collector streets in developments intended primarily for warehousing, manufacturing, and industrial uses.
    - c. Developments intended to preserve agricultural activities and open space.
- (c) **Required with Street Improvement.** Any land development or subdivision that triggers a requirement for any street improvements along an existing collector street, arterial street, or freeway frontage road shall include sidewalk improvements. The sidewalks shall be provided concurrently by the developer with other street improvements except as otherwise provided in this Section and Title 13.04.
- (d) **Site Plan.** No new or amended Site Plan shall be approved for development on any property in a location wherein sidewalks are required unless applicable provisions for required sidewalks are included in the Site Plan.
- (e) **Permits.** A Certificate of Occupancy, or any other type of final approval for a residential development that does not require a certificate of occupancy, may not be issued until required sidewalks are installed or brought up to applicable standards when there is development activity requiring:
  - (1) A permit for new construction of a structure other than an accessory structure,
  - (2) A permit for a major addition to a structure other than an accessory structure, or
  - (3) A permit for major alterations or repairs to a structure other than an accessory structure.

- (f) **Removal Requires Replacement.** An existing sidewalk may not be removed unless a replacement sidewalk is constructed to standards current at the time of removal.

### **Section 19.21.5 Waivers and Deviations**

- (a) **Waivers.** A complete waiver of the requirement for sidewalks should be rare and allowed only where there are extreme factors. The waiver shall be approved by the City Plan Commission at the time of Plat approval upon a favorable recommendation of the City Manager, or designee and shall be documented with supporting data that indicates the basis for the decision.
- (b) **Deviations.** Deviations from these requirements and the DSC and other City Sidewalk Design Standards may be allowed by the City Manager or designee as part of Site Plan review when necessary due to the physical circumstance of the street or when necessary to accomplish adopted development goals of the City.
- (1) The specific nature and justification for any deviation must be documented and authorized in writing by the City Manager, or designee.
  - (2) Deviations should be minimal and consist primarily of changes to required width of clear path or alignment within the right-of-way.
  - (3) Deviations shall not allow a minimum clear path width of less than three feet (3').

## **Section 19.22 – Fire Lanes and Fire Department Access**

### **Section 19.22.1 Reference**

See the City's adopted Fire Code.

## **Section 19.23 – Easements, Block and Lot Design and Improvement Standards**

### **Section 19.23.1 General**

#### **(a) Easements for New Development.**

- (1) For new development, all necessary on-site easements shall be established on the Final Plat and not by separate instrument, and they shall be labeled for the specific purpose and to the specific entity, if other than the City, for which they are being provided.
- (2) Exceptions. Such easements may be permitted to be established by separate instrument only in the following limited circumstances:
  - a. If requested by the entity providing services with the easement, and
  - b. If permitted by the City Manager, or designee or the EPWU.
  - c. If temporary easements are needed for temporary road or drainage improvements
- (3) The ownership, maintenance, and allowed uses of all designated easements shall be stated on the Plat. Examples include the following: a water, wastewater or drainage easement, which is dedicated to the City for a water or wastewater line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City and fire suppression and emergency medical service providers for access purposes; and an electrical, gas or communications easement, which is dedicated to the specific utility provider that requires the easement; and so on.

#### **(b) Fencing.**

- (1) Utility Easement. A wall, fence or screen shall be permitted over any utility easement provided that the easement remains fully accessible to the City for maintenance and repair purposes.
- (2) Drainage Easement. A wall, fence or screen shall be permitted over any drainage easement if the water flow within the easement is not adversely affected by the wall, fence or screen.
- (3) Removal. In addition to all other remedies provided by this Chapter, the City may summarily remove any wall, fence or screen erected in violation of this section, and the City shall not incur any liability or assume any duty to compensate the owner or replace the wall, fence or screen.

### **Section 19.23.2 Lot Area**

**Easements Included.** Lot area shall be computed inclusive of all required public and utility easements. However, the area of required easements on a lot shall in no

case exceed one-half of the lot size. If the property owner disputes the total easement area required for any lot, the owner shall submit a written computation of the percentage of the lot occupied by easements to the City Manager, or designee. The City Manager, or designee, shall in coordination with affected entities, consider a reduction in the area of required easements for the lot.

### **Section 19.23.3 Blocks - Determination and Regulation of Size**

- (a) **Determination Criteria.** The length, width, placement, and shape of blocks shall be determined with due regard to the following:
- (1) Provision of adequate building sites suitable to the particular needs of the type of use contemplated;
  - (2) Zoning and Development Agreement requirements as to lot sizes, setbacks and dimensions; and
  - (3) Convenient access, circulation, traffic control, mobility in general and safety of street traffic and for pedestrians or bicyclists traveling to a public park, public open space or school site or other facility within or close to the neighborhood.
- (b) **Streets.** Intersecting streets, which determine the lengths and widths of blocks, shall be provided in accordance with Section 19.15 to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices.
- (c) **Block Lengths.** Block lengths shall be in accordance with Section 19.15.

### **Section 19.23.4 Lots - Determination and Regulation of Size**

- (a) **Zoning District Requirements, if Applicable:** Lots shall conform to the minimum requirements of the established zoning district in which they are located, if located within the City's corporate limits.
- (b) **Lot Frontage.** All lots shall have at least one boundary abutting either a private or public street.
- (1) Each residential lot in the subdivision shall have a minimum frontage on a public or private street as required by the applicable zoning unless other provisions have been authorized through planned development approval.
  - (2) Each non-residential lot shall have a minimum frontage on a public or private street as required by the applicable zoning unless other provisions have been authorized through planned development approval.
  - (3) No residential lot frontage shall be allowed on arterial streets, except in accordance with section 19.15.6 f.

- (c) **Flag or Panhandle Lots.** Panhandle lots shall be discouraged in residential areas except when, due to unique parcel configuration it is the only way to develop the property, and it shall be considered an exception. It may be allowed as an Alternative Subdivision Design in accordance with this ordinance. It shall also be discouraged in commercial areas except when it is part of a master planned commercial center or commercial unit development with cross access easements allowing additional access. The City Plan Commission must authorize an exception allowing the flag or panhandle lots in accordance with Section 19.48 at the time of Preliminary Plat approval. Such lots shall otherwise conform to the Development Standards for Construction, and shall be based on the following design requirements.
- (1) All lots and structures shall be arranged so the structures and their addresses are visible from the public street from which the lot takes access.
  - (2) **Residential Uses.** The maximum length of the panhandle shall be one hundred feet. The minimum width of the panhandle shall be twelve feet to serve one dwelling unit. A maximum of two dwelling units may jointly use a panhandle, provided that the minimum cumulative width of the panhandle is twenty-four feet. Maintenance of the common driveway, in cases of joint use, shall be ensured by deed restrictions and a note of such deed restrictions shall be placed on the face of the Plat. In the event that a property cannot be developed whatsoever without an exception being granted by the City Plan Commission to allow a panhandle exceeding 100 feet, any buildings served by such panhandle will be required by the Fire Marshall to be sprinklered and have a hard wired alarm system. . A note shall be added to the recording Plat and the subdivision improvement plans indicating whether buildings are required to be sprinklered within the subdivision, and which lot numbers have such requirement.
- (d) **Lot Depth.** The minimum depth of each lot shall conform to requirements of the zoning district in which the lot is located, if applicable.
- (e) **General Shape and Layout.** The size, width, depth, shape and orientation of lots, and the minimum building setback lines shall conform to standards set forth herein or within the appropriate zoning district, as applicable. Lots shall be designed to assure the adequate provision of public facilities and the purpose of these subdivision regulations, taking into consideration the location and size of the subdivision and the nature of the proposed uses.
- (f) **Irregularly-Shaped Lots.** Irregularly-shaped lots shall have sufficient width and depth in accordance with the zoning ordinance to provide a reasonable building pad without encroachment into the required front, side or rear yard setbacks and to provide access including a driveway.
- (g) **Side Lot Line Configuration.** The subdivider shall make every effort to design the lots so that side lot lines are ninety degree (90°) angles or radial to street right-of-way lines.

(h) **Double Frontage Lots.**

- (1) Single family or duplex double frontage lots shall be prohibit, except where they may be essential to provide separation of single family or duplex residential development from arterial streets, or to overcome a specific disadvantage or hardship imposed by topography or other factors. Such double frontage lots allowed within the City Limits shall provide hardscape improvements to the parkway as set forth in the DSC, to be maintained by the City.
- (2) Where lots have double frontage, are not screened, and/or are provided access directly onto an arterial street, building setback lines shall be established for each street side.
- (3) Lots in singlefamily or duplex residential subdivisions and lots measuring less than one hundred feet (100') wide and located within multi-family residential subdivisions may abut a street on both the front and rear boundaries, but only under the following conditions:
  - a. One lot boundary must abut an arterial street or freeway.
  - b. A reservation or easement at least ten feet (10') wide, across which there shall be no right of access, shall be designated beside the abutting arterial street or freeway.
  - c. The City Plan Commission may require that a parkway at the rear of a double frontage lot be landscaped or other aesthetic treatment be provided by the subdivider, subject to the approval of the City Plan Commission to provide a visual and physical separation between the development and the street.

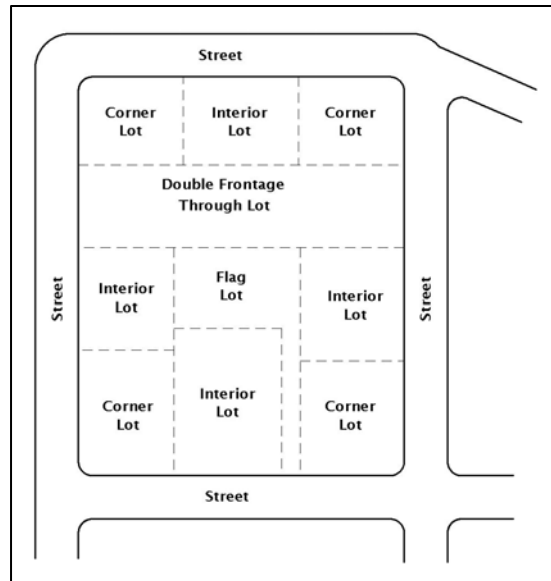


Figure 19.17-1: Types of Lots

(i) **Lots Adjacent To or In Floodplains.**

Subdivision of property in a designated floodplain must meet the requirements for floodplain management in the City's adopted Flood Hazard Prevention Ordinance and/or Chapter of the City Code, as applicable.

- (j) **Remnants.** No remnants of land shall be allowed in the subdivision which does not conform to the lot requirements of the El Paso zoning ordinance, except where proposed easements, rights-of-way or open space areas are approved by the City Plan Commission.

- (k) A lot shall not be divided by the corporate limits boundary, state line, or by another lot, street or alley or any other property.

### **Section 19.23.5 Monuments and Markers**

**Requirements.** The location of all monuments shall be in accordance with the DSC and is subject to approval by the City Manager, or designee.

## **Section 19.24 – Mountain Development Area (MDA) Standards**

### **Section 19.24.1 Applicability**

- (a) General Provisions. A filed subdivision application, or any portion thereof, which incorporates land located within the mountain development area as described in Appendix 111 shall be subject to the regulations contained within this Chapter except as modified by this Section. To the extent that there is any conflict between any of the standards provided elsewhere in this Chapter and the standards contained in this Section, the standards contained in this Section shall control with respect to the mountain development area.
- (b) Purpose and Intent. The mountain development area is characterized by slope, vegetation, drainage, rock features, geologic conditions and other physical factors. These regulations are intended to:
- (1) Preserve the scenic quality of the Franklin Mountains;
  - (2) Reduce the physical impact of hillside development by allowing innovative site and architectural design, minimizing grading and requiring restoration of graded areas;
  - (3) Reduce water runoff, soil erosion and rock slides by minimizing grading and by requiring re-vegetation;
  - (4) Utilize appropriate engineering technology to eliminate unstable slope and soil erosion;
  - (5) Permit reasonable development which is compatible with the characteristics of the mountain development area;
  - (6) Provide vehicular and emergency access which is safe, convenient, and compatible with the terrain of the land.

### **Section 19.24.2 Procedure and Requirements**

A filed subdivision application or any portion thereof, for property within the mountain development area shall follow the general procedural requirements for Plat review and approval as provided in Section 19.37 of this Chapter. The City Manager, or designee, shall make a report of the staff's written comments and recommendations in writing to the City Plan Commission, or City Manager, or designee where administrative approval is authorized, prior to any action on the subdivision application. In all instances, a subdivision application submitted for property within the mountain development area shall be completed within the time period specified in Section 19.1 and 19.37 of this Chapter.

### Section 19.24.3 Development Standards

The subdivider shall comply with the following development standards, in addition to those identified in Article 2, Subdivision Standards, and shall incorporate the requirements within the subdivision application.

(a) Drainage and Erosion.

- (1) All necessary erosion control measures shall remain in place until effective stabilization occurs.
- (2) Erosion control shall utilize live native re-vegetation to the extent reasonably possible.
- (3) The existing natural drainage system on the property may be used to satisfy the stormwater drainage requirements of this Chapter when recommended by the City Manager or designee and approved by the City Plan Commission based on findings of hydrology and storm drainage report.
- (4) Ponding areas used as stormwater drainage facilities shall not be permitted, except where recommended by the City Manager or designee and approved by the City Plan Commission. Ponding areas shall remain undisturbed in their natural state to the extent reasonably possible.
- (5) No existing watercourse or other natural drainage system carrying more than five cubic feet per second in a one hundred year frequency storm, whether on-site or off-site, shall be disturbed by any building development or construction activity within the proposed subdivision unless no other reasonable drainage alternative exists as recommended by the City Manager, or designee and approved by the City Plan Commission.
- (6) All floodways in floodplain areas shall be dedicated as drainage easements or rights-of-way.

(b) Vegetation and Re-vegetation.

- (1) Vegetation and re-vegetation shall be required on all disturbed areas. If in the course of construction of buildable areas, non-buildable areas are disturbed, the subdivider shall restore the formerly undisturbed areas through the replanting of appropriate native, adaptive and drought tolerant re-vegetation to mitigate soil erosion. For purposes of this requirement, appearance features which are compatible with the area shall be allowed when approved by the City Manager, or designee.
- (2) Existing natural vegetation on the property shall be retained in its natural state, except where necessary for the construction of subdivision improvements and buildings or to replace or improve undesirable vegetation.

(c) Fire Protection. All lots shall be supplied with adequate fire protection in the form of fire hydrants capable of sustaining a flow rate as follows (as evidenced by flow tests), and spaced at intervals of not more than five hundred feet:

<b>Flow Rates (gallons per minute)</b>	<b>Structures Sprinklered</b>
500 to 999	All buildings
1,000 to 1,499	All buildings exceeding three thousand square feet
1,500 or more	None required

A note shall be placed on the subdivision improvement plans which indicates whether or not buildings within the subdivision are required to be sprinklered based on the flow rate requirements of this subsection.

- (d) Grading, Cuts and Fills. Grading allowed within a subdivision shall be based on the concept of minimal disturbance, and not on maximum buildable footage.
- (1) Exposed slopes of surfaces of excavation or fill shall comply with the requirements of the geotechnical report, except as otherwise recommended by the City Manager, or designee and approved by the City Plan Commission.
  - (2) The maximum vertical height of a cut or fill shall be fifteen feet, except that the City Manager, or designee may recommend and the City Plan Commission approve a greater vertical height when necessary.
- (e) Streets.
- (1) Streets shall not exceed 11% grades.
    - a. Under special site-specific circumstances the 11% grades can be exceeded for short distances with the approval of the City Manager or designee
    - b. Streets with grades in excess of 11% shall be permanently signed for no parking.
    - c. Where a street grade exceeds eleven percent, buildings on lots fronting and accessed by the street shall be required to be sprinklered by the City Plan Commission when recommended by the City Manager, or designee and the Fire Chief.
    - d. If the only access to a subdivision is by a street with a grade exceeding 11%, then all structures in the subdivision are considered to be accessed by a street exceeding 11% and required to be sprinklered. A note shall be placed on the subdivision improvement plans which indicates whether or not buildings within the subdivision are required to be sprinklered based on the requirements of this subsection.
  - (2) Mountain residential and divided mountain residential streets shall be designed to meet a design speed as follows:

- a. Twenty miles per hour when the street is designed to carry an average daily traffic (ADT) volume of less than two hundred vehicle trips;
  - b. Twenty-five miles per hour when the street is designed to carry an average daily traffic (ADT) volume of two hundred or more vehicle trips;
  - c. Twenty-five miles per hour when the street is designed as a stub street.
- (3) Mountain Residential Street. A mountain residential street is intended to reduce roadway impact to environmentally sensitive areas and to protect landscape and topography, and shall only be used for development of property within the mountain development area.
- a. The mountain residential street carries residential neighborhood traffic, and provides direct access to abutting properties. This street shall carry traffic from within the neighborhood and shall provide the safest environment.
  - b. Mountain residential streets shall be designed to discourage through traffic unless connection to streets outside the subdivision is recommended by the City Manager or designee.
  - c. The total right-of-way width for a mountain residential street shall be twenty-three feet; which shall include the following:
    - 1. Two ten-foot driving lanes;
    - 2. Header curbing;
    - 3. No sidewalks;
    - 4. No parkways;
    - 5. Utility easements; as needed within the subdivision to accommodate utility service connections.
  - d. On-street parking shall be prohibited. Designated parking areas may be provided on property adjacent to the street right-of-way.
4. Divided Mountain Residential Street. A divided mountain residential street is intended to reduce roadway impact to environmentally sensitive areas and to protect landscape and topography, and shall only be used for development of property within the mountain development area.
- a. The divided mountain residential street carries residential neighborhood traffic, and provides direct access to abutting properties. This street shall carry traffic from within the neighborhood and shall provide the safest environment.
  - b. Divided mountain residential streets shall be designed to discourage through traffic unless connection to streets outside the subdivision is recommended by the traffic division of the engineering department.
  - c. The total right-of-way width for a divided mountain residential street shall vary based on the width of the median, but shall include as a minimum the following:
    - 1. Two ten-foot driving lanes;
    - 2. Header curbing;
    - 3. One median of variable width with header curbing;
    - 4. No sidewalks;
    - 5. No parkways;
    - 6. Utility easements; shall be provided as needed within the subdivision to accommodate utility service connections.

- d. On-street parking shall be prohibited. Designated parking areas may be provided on property adjacent to the street right-of-way.
  
- (f) Street Lighting. The subdivider shall furnish and install one street light at each street intersection. The design and installation of street lights shall be in accordance with the Development Standards for Construction.
  
- (g) Panhandle Lots for Residential Uses. Panhandle lots for residential uses shall be permitted to reduce grading and cut and fill. The maximum length of the panhandle shall be seven hundred fifty feet. The minimum width of the panhandle shall be twelve feet to serve one dwelling unit. A maximum of four dwelling units may jointly use a panhandle, provided that the minimum cumulative width of the entire common driveway is twenty feet. Maintenance of the common driveway, in cases of joint use, shall be ensured by deed restrictions and a note of such deed restrictions shall be placed on the face of the Plat. Residential lots with panhandles in excess of 100 feet will be required to provide residential sprinkler systems and hard wired alarm system on structures. A note shall be added to the recording Plat and the subdivision improvement plans indicating whether buildings are required to be sprinklered and have hard wired alarm systems within the subdivision, and which lot numbers have such requirement.
  
- (h) Signage. Traffic control signs shall be permitted to be installed on shared sign posts to reduce visual clutter in the subdivision.
  
- (i) Driveway Access.
  - (1) The City Plan Commission may approve a driveway length in excess of two hundred fifty feet, and up to a maximum of seven hundred fifty feet, when the subdivider provides evidence of all of the following:
    - a. A driveway grade at a maximum horizontal distance in feet is provided as follows:

<b>Driveway Grade</b>	<b>Maximum Grade Length (horizontal distance in feet)</b>
12-13	700
14-15	350
16-18	200

Where a driveway grade exceeds eleven percent, buildings on lots fronting the driveway shall be required to be sprinklered by the City Plan Commission when recommended by the City Manager, or designee and the Fire Chief. A note shall be placed on the subdivision improvement plans which indicates whether

- or not buildings within the subdivision are required to be sprinklered based on the requirements of this subsection, and
- b. The driveway is of asphalt or concrete construction to support fire fighting and other emergency apparatus.
- (2) For purposes of this subsection, the driveway length shall be calculated from the abutting street to the nearest face of the primary structure.
  - (3) The City Plan Commission may grant an exception when it makes a finding pursuant to Section 19.48 and allow a greater driveway length than seven hundred fifty feet, the approval shall be subject to the building construction being sprinklered with a hard wired alarm system. . A note shall be added to the recording Plat and the subdivision improvement plans indicating whether buildings are required to be sprinklered and have hard wired alarm systems within the subdivision, and which lot numbers have such requirement.

#### **Section 19.24.4 Reports Required**

A filed subdivision application on property within the mountain development area, or portion thereof, shall be accompanied by five copies of the following:

- (a) Soils Report. A soils report containing all of the following information:
  - (1) Soil conservation map of the property, delineating soil types;
  - (2) An accurate topographic map;
  - (3) Major soil hazard ratings in relation to the total area of development;
  - (4) Percentage of area to be disturbed in relation to the total area of development.
  
- (b) Grading, Drainage and Erosion Plan. A grading, drainage and erosion plan containing all of the following information:
  - (1) Grading plan showing the existing topography and proposed grades, including elevations, lines and grades;
  - (2) A flood analysis for stream channels that occur on the property based on the following criteria:
    - a. One hundred year storm event,
    - b. The peak discharge of stormwater,
    - c. Provisions for storm drainage;
  - (3) A map indicating the on-site and off-site drainage area contributory to the property;
  - (4) Specific erosion control methods to be used on the disturbed areas;
  - (5) Calculations and proposed details used for design and construction, including:
    - a. Rainfall intensity,
    - b. Soil stability,
    - c. Land slope and topography,
    - d. Condition of the soil surface and land management methods in use,
    - e. Surface cover, grass, shrubs and pavement;
  - (6) A geotechnical report for all cuts and fills which addresses stability.
  
- (c) Vegetation Preservation and Protection Report. A vegetation preservation and protection report containing all of the following information:
  - (1) General description of existing vegetation and proposed use of new vegetation;

- (2) The vegetation to be removed and method of disposal;
- (3) The vegetation to be planted;
- (4) Slope stabilization measures to be installed.

## **Section 19.25 – Additional Requirements**

### **Section 19.25.1 Postal Delivery Service**

- (a) Every subdivision shall provide for appropriate mail receptacles for postal delivery service. The subdivider shall coordinate with the responsible entity in determining the type of delivery service for the proposed subdivision and the location and installation of any mail receptacles. A copy of an Agreement between the subdivider and the responsible entity shall accompany the submission of the recording plat and shall serve as verification that coordination has occurred. The terms of the Agreement are not subject to review by the City.
- (b) Location. Mail receptacles shall be placed in a location that is convenient, accessible, safe and efficient to all lots in the subdivision, and shall be subject to the following location standards:
- a. located in an area with a slope of no more than one-quarter inch per foot;
  - b. located in an area that is illuminated by street lighting;
  - c. not be located on an arterial street;
  - d. not be located in the area of the visibility triangle at an intersection;

### **Section 19.25.2 Subdivision Identification Signs**

- (a) **Where a subdivider proposes an identification sign within the subdivision, the following shall be required:**
- (1) No more than two subdivision identification signs shall be permitted per subdivision entrance;
  - (2) No portion of a subdivision identification sign shall be within a public right-of-way or public easement, except where authorized by special privilege license granted by City Council;
  - (3) The maximum area of subdivision identification signs shall be forty-eight square feet per subdivision entrance. The subdivision identification sign shall only include the name, logo or other identification of the subdivision or project;
  - (4) The location of subdivision identification signs shall be subject to the approval of the City Manager, or designee and shall be shown on the subdivision improvement plans.
  - (5) The subdivider shall secure required city permits for the placement of the subdivision identification sign(s) on the property;
  - (6) Where a subdivision identification sign is proposed, restrictive covenants shall be submitted with the subdivision which provide for the formation of a neighborhood association which shall provide for the perpetual maintenance of the sign. As an alternative, if an improvement district such as a Public

Improvement District has been created to maintain public improvements and amenities, it can also maintain the sign.

### **Section 19.25.3 Community Facilities**

Where the location of a community facility, as defined, within a subdivision is needed based on The Plan for El Paso, and is recommended by the City Plan Commission, the subdivider shall coordinate with the city to locate and assist in the acquisition of land for the facility, in accordance with Section 19.46 on Proportionality.

## **Section 19.26 – Alternative Subdivision/Smart Code Designs**

### **Section 19.26.1 Purpose**

**Purpose.** It is the purpose of this Section to provide for the consideration of alternative subdivision designs, smart growth and form based subdivisions, infill developments, mixed use districts and alternative improvement designs and engineering which differ from the conventional design standards as outlined within this Article of this Chapter, but which are based upon sound engineering, planning and urban design practice. Infill Development provisions would encourage the development of smaller, isolated tracts of land in the inner city or the area surrounding it that have been passed over by development and have remained vacant for years, and may include platted or unplatted land. “Alternative Subdivision Improvements” mean alternative designs for physical improvements such as streets, water and wastewater, as well as any other infrastructure element of a proposed development. Smart Code Subdivisions are those adopted in accordance with the Smart Code provisions of the City of El Paso.

### **Section 19.26.2 Infill Development**

- (a) **Intent and Purpose:** The following guidelines are designed to meet the intent and purpose of the infill sections, requirements and references in Title 20, the Zoning Ordinance to reinvigorate existing communities and neighborhoods and support new compact, single or mixed-use development. This section is intended to reduce barriers to infill development, and to provide incentives such the use of flag lots and private drives, reduced drainage standards on smaller parcels, reduced fees and participation in or reduced requirements for infrastructure.
- (b) **Application.** An application for an Infill Development Procedure shall be submitted at the time of Preliminary Plat application. The Infill Development subdivision design will be reviewed under the provisions outlined in the Zoning Ordinance under the Alternative Subdivision Design provisions for Infill Development, as well as in Section 19.3, Preliminary Plat, of this Chapter, as amended and provisions outlined in this section. The Infill Subdivision Improvement Plans and applicable incentives must be submitted, requested, reviewed and approved prior to Final Plat approval of an Infill Development and recordation. All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form and meeting the administrative submission requirements available in the Planning Department.
- (c) **Designated Areas.** The provisions of this section shall apply to areas designated for Infill development in Title 20, the Zoning Ordinance.

**(d) Zoning Districts and Related Single Family Lot Sizes.**

The applicable zoning districts in which the Infill Development procedure may be used and the Infill Development standards that may be permitted for single family uses through the use of the procedure shall be as allowed by the Infill Development provisions of the Zoning Ordinance.

**(e) Incentives.** In addition to the incentive of smaller lots and higher density in accordance with the Zoning Ordinance, the following incentives are available in developments meeting the requirements of this Section:

- (1) **Reduced Fees.** The City Manager or designee shall waive the development fees associated with the subdivision review and approval process for qualified projects. The El Paso Water Utility may waive one or more fees associated with water and wastewater service, including hookup fees, for qualified projects.
- (2) **Replat Fees and Approval.** While replatting laws of the State of Texas must be observed, replats with less than 4 lots may be administratively approved in accordance with this ordinance without a public hearing and the fees may be waived as described above.
- (3) **Infrastructure Cost Participation.** The City Council may choose to pay for additional participation in public infrastructure beyond what is required by this ordinance for a qualified Infill Development. The determination by the City Council shall be made prior to the approval of the final plat and may include but is not limited to:
  - a. Construction, repair or replacement of public streets, curbs and gutters or alleys.
  - b. Construction, repair or replacement of sidewalks, street lighting or other pedestrian improvements.
  - c. Construction, repair or replacement of storm drainage facilities.
- (4) **Water and Wastewater.** The El Paso Public Water Utility may choose to pay for additional participation in public infrastructure by this ordinance for a qualified Infill Development.
- (5) **Stormwater and erosion control.** Infill projects that create less than 10,000 sf of new impervious surface are exempt from the stormwater requirements, excluding stormwater utility fees.

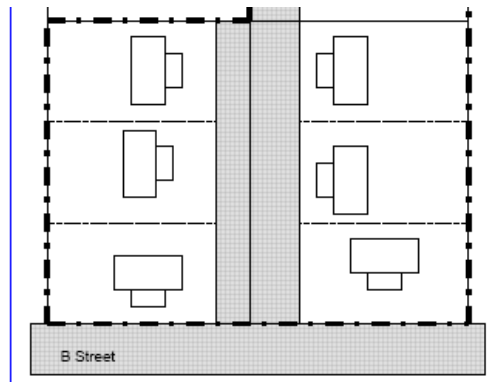
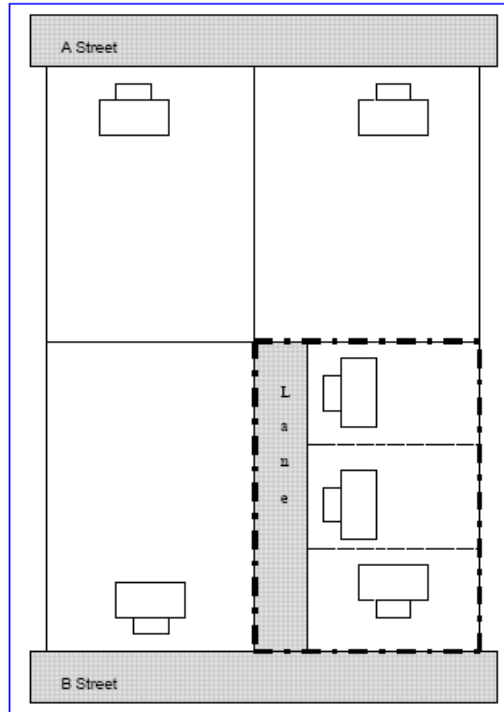
**Section 19.26.3 Reduced Roadway and Lot Frontage Requirements**

- (1) **Flag Lots and Reduced Roadway and Lot Frontage Requirements.** Public streets serving single family residential lots may be replaced by private

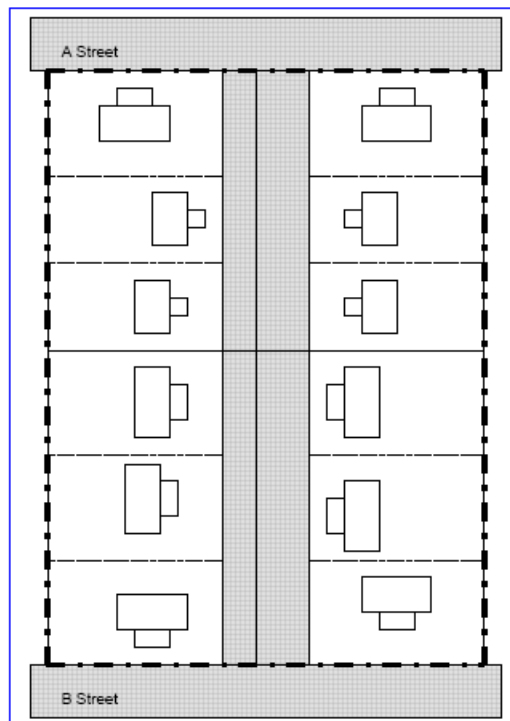
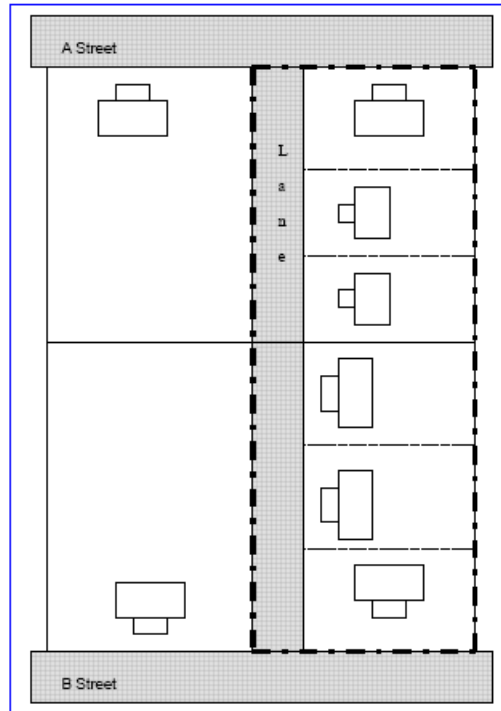
roadways (access lanes) 20 feet wide within a minimum 30-foot easement used to serve up to eight (8) lots.

- (2) Such roadways and access lanes shall be shown in an easement dedicated to the property owners and public agencies that is designated by a note on the recorded plat as a "perpetual reciprocal easement."
- (3) Such private access lane may be allowed with designation as an Infill Development or in other single family residential zoning districts if the CPC finds:
  - a. Physical conditions preclude development of the street, such conditions may include but are not limited to topography or likely impact to natural resource areas such as arroyos, wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area or are source on the National Wetland Inventory or under protection by state or federal law;
  - b. Buildings or other existing development on adjacent lands including previously subdivided but vacant lots or parcels physically preclude a public street now or in the future considering the potential for redevelopment.
  - c. If the applicant can demonstrate that a future street cannot be made to serve the property, then the application for plat approval shall be processed subject to subdivision standards.

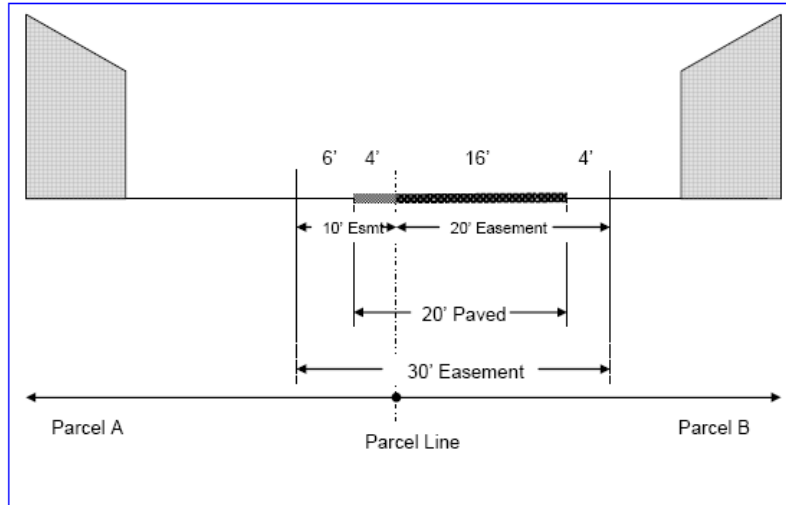
- (4) For lots or parcels that do not extend from one street to another, the following diagram indicates how up to four (4) lots may be platted fronting on a 20 foot wide access lane that extends up to 200 feet in depth. Lanes in excess of 200 feet must be 24 feet wide with an additional 4 feet of easement and be designated as a fire lane.



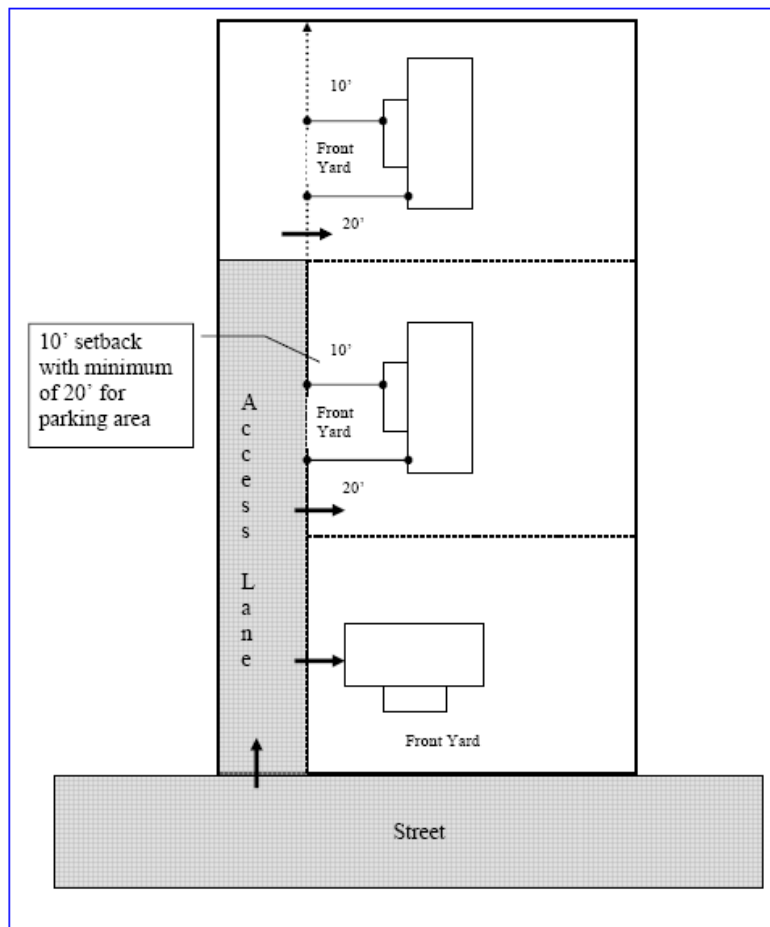
- For lots or parcels that do extend from one street to another, the following diagram indicates how up to eight (8) lots may be platted fronting on a 20 foot wide access lane that extends up to 400 feet in depth.



6. The following diagram indicates how two separately owned adjoining parcels or lots may provide or be sequenced to provide 30 feet of easement and 20 feet of access lane.



7. The following diagram indicates how lots will front on the access lane and where the front yard and parking setbacks are measured from. (Numbers are for example purposes only. The Zoning Ordinance has the actual dimension requirements.)



### Section 19.26.4 Alternative Subdivision Improvement Design

- (a) **Intent.** This section contains the regulations for the Alternative Subdivision Improvement Design procedure. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Ordinance, which are incorporated as part of this section by reference. It is in the intent of the Alternative Subdivision Improvement Design procedure to allow one or more alternative improvement designs to those required in this ordinance and the DSC to be utilized in a comprehensive manner throughout a proposed development, provided the improvements meet the intent and have the same or higher level of service or adequacy of the original required improvement. It is not the intent of the Alternative Subdivision Improvement Design procedure to allow an inferior improvement to the original one required by this ordinance for the purpose of reducing costs.
- (b) **Application.** An application for the Alternative Subdivision Improvement Design Procedure shall be submitted at the time of Preliminary Plat application, along with a Subdivision Improvement Plan showing the proposed changes. Subdivision Improvement Plans in accordance with this ordinance with the proposed Alternative Subdivision Improvement Design clearly designated shall be provided in order for the engineering staff to make an evaluation of the proposal. Engineering or other studies should be provided to establish that the proposal meets the intent of this ordinance and provides the same level or greater of protection, service or adequacy of the original requirement. The Alternative Subdivision Improvement design will be reviewed under the provisions outlined in Section 19.3, Preliminary Plat of Section 19.18.1, Subdivision Improvement Plans, as amended, as well as provisions outlined in this section. All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form and meeting the administrative submission requirements available in the Planning Department.
- (c) **Based on Engineering.** Decisions regarding the design of various physical improvements in a subdivision should be based on engineering or other studies. Thus, while this Code provides standards for design, the regulations are not a substitute for sound engineering judgment. Therefore, a licensed engineer may submit alternative designs to be reviewed and considered by the City Manager, or designee.
- (d) **Relationship to Standards in Section 19.15, Roadways.** If the proposed alternative design is approved by the City Manager, or designee, then the applicable provisions of Section 19.15 shall be deemed to have been met. If the proposed alternative design standards are not approved by the City Manager, or designee, then the standards contained within Section 19.15 shall apply.

- (e) **Relationship to all other Improvement Standards.** If the proposed Alternative Subdivision Improvement Design is determined to meet or exceed the standard for such improvement contained in this ordinance and the DSC and approved by the CPC upon recommendation of City Manager, or designee, then the applicable provisions of this ordinance shall be deemed to have been met. If the proposed alternative design standards are determined not to be the equivalent of the standard contained in this ordinance and not approved by the City Manager, or designee, then the standards contained within this ordinance shall apply.

### Section 19.26.5 Form Based/Smart Code Subdivisions

- (a) **Standards** - The El Paso Code of Ordinances at Section 20. XX. XXX will set forth standards for subdivisions as part of the form based/smart code initiative. Applicants for a Form Based/Smart Code subdivision approval are required to utilize the standards contained in the Design Standards for Construction in the following Tables in the Smart Code Section:

Table 3A – Vehicular Lane Dimensions  
 Table 3B – Vehicular Lane and Parking Assemblies  
 Table 4A – Public Frontages - General  
 Table 4C – Thoroughfare Assemblies  
 Table 17B – Turning Radius  
 Table X – Open Space  
 Table XX – Drainage

- (b) **Applicability of Form Based and Smart Code Provisions:**

- (1) **Subdivision with Smart Code Zoning In Place:** In cases where the applicant for subdivision approval is currently zoned in a district which will be set forth in Chapter 20 of the El Paso code of ordinances as a “smart code” or “form based” code district, then the applicant shall utilize the form based/smart code standards set forth in Section 20. XX. XXX, Section 19.26.5 of this code and the Design Standards for Construction.
- (2) **Properties Seeking Zoning Approval:** In unplatted properties in which the applicant is seeking zoning approval for districts set forth in the form based/smart code section of Chapter 20 of the El Paso code of ordinance, and is proposing to use form based code/smart code standards in their plat and subdivision improvement drawings, then the applicant shall utilize the form based code/smart code standards set forth in Section 20. XX. XXX, Section 19.26.1 of this code and the Design Standards for Construction.

### Section 19.26.6 Approval

- (a) **Infill Development.** The City Plan Commission, as part of the Preliminary Plat Approval, may approve, approve with conditions or deny the proposed Infill Development, provided it meets all the requirements in this Section. Since the applicant is assured of approval of a Preliminary Plat that meets the requirements of this ordinance, the CPC is not obligated to approve an Infill Development. It is the applicant's obligation to document to the CPC that the Infill Development meets the intent of this section and is a better quality development than would otherwise be developed. Replats of existing lots shall meet the requirements of Texas State Statute. If the proposed Infill Development Plat is approved, or approved with conditions by the City Plan Commission, upon recommendation by the Manager, or designee, then the applicable provisions of this ordinance shall be deemed to have been met. If the proposed Infill Development is not approved by the City Plan Commission, then the standards contained within this ordinance shall apply.
- (b) **Alternative Subdivision Improvement Design.**
- (1) Alternative Subdivision Improvement Designs that either alter the road standards and applicable provisions in Section 19.15 or the various other physical improvement standards contained in this ordinance or in the DSC, may be approved by the CPC upon recommendation of the City Manager or designee as part of the Preliminary and/or Final Plat approval, if the CPC and the City Manager or designee agree with the engineering studies provided as part of the submission showing that the proposal meets the intent of this ordinance and provides the same level or greater of protection, service or adequacy of the original requirement.
  - (2) Since there are already acceptable standards for subdivision improvements and the applicant is assured of approval of a Preliminary Plat that meets the requirements of this ordinance, the CPC is not obligated to approve an Alternative Subdivision Improvement Design. It is the applicant's obligation to document to the CPC that the Alternative Subdivision Improvement Design meets the intent of this section and is a better quality development than would otherwise be developed.
  - (3) The City Plan Commission may approve Alternative Subdivision Improvement Designs as part of a Land Study if the Land Study contains sufficient detail and information, to include any necessary engineering studies, showing that the proposal meets the intent of this ordinance and provides the same level or greater of protection, service or adequacy of the original requirement.
  - (4) If the proposed Alternative Subdivision Improvement Design is approved, or approved with conditions by the City Plan Commission, upon recommendation by the Manager, or designee, then the applicable provisions of this ordinance shall be deemed to have been met. If the proposed Alternative Subdivision

Improvement Design is not approved by the City Plan Commission, then the standards contained within this ordinance shall apply.

- (c) **Form Based or Smart Code Subdivisions.** The City Plan Commission, as part of the Preliminary Plat Approval, may approve, approve with conditions or deny the proposed Form Based or Smart Code Subdivision. If the Form Based or Smart Codes Subdivision meets the requirements of El Paso Code of Ordinances for Form Based or Smart Codes, this Chapter and the Design Standards for Construction, then the CPC shall approve the plat.
- (d) Misrepresentation of facts of any kind shall result in the denial or revocation of the approval or conditional approval of the preliminary plat and/or final plat.

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## **Article 3 – Authority of Decision-Makers**

### **Section 19.30 – General Provisions**

#### **Section 19.30.1 Source of Authority**

**Authority.** Authority under this Chapter shall be vested in and delegated to the officials and decision-makers designated in this Chapter, under the City's charter, the constitution and laws of the state of Texas, and the City Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Chapter to any authority conferred upon the officials and decision-makers under the City's charter, the constitution or laws of the state of Texas, or the City Code, or the failure to identify in this article authority conferred by other provisions of this Chapter, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

#### **Section 19.30.2 Implied Authority**

**Authority.** City officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by this Chapter to the extent the implied authority is not in conflict with the expressly delegated authority.

#### **Section 19.30.3 Effect of City Approval**

- (a) **Effect of City Approval.** The City's approval of applications, plans, designs, plats or any other documents requiring City approval under the standards and procedures of the Subdivision Code does not guarantee or assure that the development of the property will prevent, minimize, or mitigate harm to adjoining properties. The City's approval does not permit the violation of any city, state or federal law. A developer who undertakes development activities shall not rely on the City's approval of an application as ensuring that the development activities will not result in harm to adjoining properties. Additionally, the City's approval does not excuse or release the developer from compliance with all applicable city ordinances. The regulations contained in the Subdivision Code constitute an exercise of the City's governmental authority, and approval of an application shall not give rise to any liability on the part of the City or its officers, agents, and employees. It is the developer's responsibility to ensure that any applications, plans, designs, plats or any other documents required to be submitted under the standards and procedures of the Subdivision Code comply with all provisions of the City ordinances and state laws, whether herein specified or not.
- (b) **No Waivers.** Except as expressly provided for in this Chapter, no official, board, commission of the City, or the City Council, shall have authority to waive any

requirement or standard for an application. Any attempted waiver of a requirement or standard for an application in contravention of this Subsection shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approval, or reconsideration of a legislative decision.

### **Section 19.30.4 Conflict in Authority**

- (a) **Internal Inconsistency.** Whenever one or more provisions of this Chapter are in apparent conflict, the provisions shall be construed, if possible, so that effect is given to each. If the conflict is between a general provision and a specific provision, and the conflict is irreconcilable, the specific provision shall prevail as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision should prevail.
- (b) **Incomplete Provisions.** Whenever a specific standard or procedure of this Chapter is incomplete when applied in isolation to an application or development activity, such standard shall be supplemented by any general or specific provision of this Code, the City Code, or the City Charter in order to give effect to the incomplete provision.

## **Section 19.31 – Responsible Officials**

### **Section 19.31.1 Responsible Official Designated**

- (a) **Responsible Official.** The responsible official shall be the Director of a designated City department, as contained in the official list of City Manager designees available on the web site and in the Planning Department, who is assigned responsibility under this Chapter for taking the following actions with regard to a particular type of application or relief petition authorized under this Chapter:
  - (1) Accepting the application for submittal, filing and processing the application;
  - (2) Reviewing and making recommendations concerning the application or petition;
  - (3) Seeking advice of other City departments and coordinating any recommendations from such departments concerning the application or petition;
  - (4) Initially deciding the application or petition, where so authorized;
  - (5) Determining a request for exemption;
  - (6) Preparing reports to and advising any board, commission or the City Council that has responsibility for making recommendations on or deciding the application or petition;
  - (7) Promulgating additional or modified policies, standards and administrative rules for adoption by the City Council that apply to the application or petition;

- (8) Initiating enforcement actions concerning compliance with the standards applicable to the application or petition and the conditions imposed thereon; and
  - (9) Taking all other actions necessary for administration of the provisions of this Chapter with respect to the application or petition.
- (b) **Specific Duties.** The specific duties of the responsible official shall include those authorized under the procedures applicable to all types of applications pursuant to this Chapter, those authorized under the provisions governing procedures for deciding particular applications under Article 3 and 4 of this Chapter, and those authorized under relief procedures pursuant to Article 5 of this Chapter.
- (c) **Delegation.** The responsible official may delegate the official's authority under this Code to subordinate officials, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

### Section 19.31.2 Deputy Director -Planning

- (a) **Responsible Official.** The Deputy Director - Planning or City Manager designee is the responsible official for the following types of applications and relief petitions:
- (1) Petition for amending the Comprehensive Plan;
  - (2) Application for a Land Study, Preliminary Plat, Final Plat, Minor Plat, and Replat;
  - (3) Appeal of a decision on any application for which the Director is the responsible official;
  - (4) Alternative Subdivision Designs, exception or waiver petition for any application for which the Director is the responsible official;
  - (5) Vested rights petition for any decision where the Director is the responsible official for the application for which the vested rights petition is submitted;
- (b) **Initial Decision-Maker.** The Deputy Director - Planning or City Manager designee is the initial decision-maker for the following types of applications and relief petitions, subject to appeal as provided in this Chapter:
- (1) Application for a Minor Plat or Replat of four or less lots as authorized by state statute;
  - (2) Application for an Amending Plat;
  - (3) Vested rights petition for any decision for which the Deputy Director - Planning or City Manager designee is the initial decision-maker.

### Section 19.31.3 Subdivision Improvement Plan Engineer

- (a) **Responsible Official.** The Subdivision Improvement Plan Engineer is the Development Services Director or designee or City Manager's designee and is the

responsible official for the following types of applications and relief petitions (except as provided):

- (1) Application for approval of construction and engineering plans, and all related construction management tasks, including without limitation, approval of contracts for public improvements;
  - (2) Application for a Site Preparation Permit;
  - (3) Appeal of a decision on any application for which the Director is the responsible official;
  - (4) Alternative Subdivision Designs, exception or waiver petition for any application for which the Subdivision Improvement Plan Engineer is the responsible official;
  - (5) Vested rights petition for any decision where the Subdivision Improvement Plan Engineer is the responsible official for the application for which the vested rights petition is submitted; and
  - (6) Petition for relief from a dedication or construction requirement in accordance with Section 19.46 and other provisions of this Chapter.
- (b) **Initial Decision-Maker.** The Subdivision Improvement Plan Engineer is the initial decision-maker for the following types of applications and relief petitions, subject to appeal as provided in this Chapter:
- (1) Application for approval of construction plans, and all related construction management tasks, including without limitation approval of a contract for public improvements;
  - (2) Application for a Site Preparation Permit; and
  - (3) Vested rights petition for any decision for which the Subdivision Improvement Plan Engineer is the initial decision-maker.

#### **Section 19.31.4 Deputy Director - Building Permits & Inspections**

**Responsible Official and Initial Decision-Maker.** The Deputy Director - Building Permits & Inspections is the responsible official for and shall initially decide the following types of applications:

- (1) Application for a Building Permit; and
- (2) Application for a Certificate of Occupancy;

#### **Section 19.31.5 Parks Director**

**Responsible Official and Initial Decision-Maker.** The Parks Director is the responsible official for and shall initially decide the following types of applications:

- (1) Accepting fees in lieu of parkland.
- (2) Acceptable Parkland Dedications
- (3) All other decisions authorized in Section 19.20, Parks and Open Space, to be decided by the Parks Director.

### **Section 19.31.6 Development Services Director**

**Initial Decision-Maker.** The Development Services Director or designee or City Manager's designee is the initial decision-maker for any appeal for which a City staff person is the initial decision-maker, subject to further appeal as provided for in this Chapter. He/she is also the initial decision maker for the following:

- (1) Application for approval of construction and engineering plans, and all related construction management tasks, including without limitation, approval of contracts for public improvements;
- (2) Application for a Site Preparation Permit;
- (3) Appeal of a decision on any application for which the Director is the responsible official;
- (4) Alternative Subdivision Designs, exception or waiver petition for any application for which the Subdivision Improvement Plan Engineer is the responsible official;
- (5) Vested rights petition for any decision where the Subdivision Improvement Plan Engineer is the responsible official for the application for which the vested rights petition is submitted; and
- (6) Petition for relief from a dedication or construction requirement in accordance with Section 19.46 and other provisions of this Chapter.

### **Section 19.31.7 Storm Water Administrator**

**Responsible Official and Initial Decision-Maker.** The Storm Water Administrator shall be the person designated by the City Manager to be the responsible official and initial decision maker for applications pertaining to drainage plans and other drainage decisions as may be required in Title 18 Building and Construction and Section 19.19 Storm Water Management Requirements.

### **Section 19.31.8 Floodplain Administrator**

**Responsible Official and Initial Decision-Maker.** The City Manager shall designate a Texas licensed professional engineer as the Floodplain Administrator to administer and implement the provisions of Chapter 18.60 and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

### **Section 19.31.9 Other City Officials**

The City Manager, City Attorney and any other official delegated or otherwise who has responsibilities under the requirements of this Chapter are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

## **Section 19.32 – City Plan Commission**

### **Section 19.32.1 Reference to City Charter**

**Reference.** The City Plan Commission shall have the powers and duties as provided for in Chapter 2.08 of the El Paso Municipal Code, the Charter of the City of El Paso, Texas and as authorized by Chapters 211, 212 and 245 of the Texas Local Government Code.

## **Section 19.33 – City Council**

### **Section 19.33.1 Authority for Amendments to this Chapter**

**Authority.** The City Council shall have all powers and authority derived from the state constitution and laws, the city charter, and as specifically described in this Section. In addition, they may from time to time amend, supplement or change by ordinance the text of this Chapter on its own initiative or upon petition for a text amendment, following review and recommendation by the City Plan Commission.

### **Section 19.33.2 Authority for Deciding Appeals and Relief Petitions**

(a) **Appellate Authority.** The City Council shall finally decide appeals on the following applications and relief petitions:

- (1) A vested rights petition submitted in conjunction with an application for which the City Council is the final decision-maker;
- (2) A vested rights petition that has been previously denied by a City official, City board/commission or the El Paso Water Utility;

(b) **Petitions for Relief.** The City Council shall finally decide the following petitions for relief:

- (1) Petition for relief from a dedication or construction requirement in accordance with Section 19.10 and other provisions of this Chapter, where such waiver or exception shall obligate the City to a future expense to either acquire such dedication or construct an improvement.

## **Section 19.34 – Development Coordinating Committee (DCC)**

### **Section 19.34.1 Structure of the Development Coordinating Committee**

**General.** The City Manager or his/her designee is hereby authorized to establish whatever staff review committees or procedures they deem necessary to review development proposals, applications and plats under this ordinance, to make necessary recommendations to the City Plan Commission, to ensure that certain applications are in compliance with this Chapter and other codes of the City, and to coordinate preliminary examination of such applications to ensure that all City departmental requirements, established by resolution or ordinance, have been met without conflict.

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## **Article 4 – Specific Application and Processing Requirements**

### **Section 19.37 – Application Processing**

#### **Section 19.37.1 Initiation of Application**

**Initiation by Owner.** An application for plat approval or a development permit may be initiated only by an owner of an interest in the land subject to the application, or the owner's designated agent. The application shall contain an affidavit of ownership to be signed by the owner of interest. If the applicant is a designated agent, the application shall include a notarized statement from the property owner authorizing the agent to file the application on the owner's behalf.

#### **Section 19.37.2 Application Completeness and Expiration**

- (a) **Applicability.** The following procedures shall apply to any application that is required by the City and is submitted in accordance with this Chapter.
- (b) **Determination of Completeness.** Every required application shall be subject to a determination of completeness by the responsible official for processing the application.
- (1) No required application shall be accepted by the responsible official for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Chapter.
  - (2) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Chapter.
  - (3) A determination of completeness shall be made by the responsible official in writing to the applicant no later than the fifth (5<sup>th</sup>) business day, unless otherwise specified, after the date that the required application is submitted to the responsible official.
    - a. The applicant shall be notified within five (5) business days, unless otherwise specified, of the determination of completeness.
    - b. If the required application is determined to be complete, the application shall be determined to be submitted as of the date of the submission and processed as prescribed by this Chapter.
    - c. If the required application is determined to be incomplete, the notification shall specify the documents or other information needed to complete the application and shall state the date the application will expire (see Subsection (d) below) if the documents or other information are not provided by the applicant or their consultants.

- d. A letter of notification of incompleteness shall be given to the applicant within 5 business days of receipt of initial submittal, and shall include a notice that the application must be completed within 45 dates of the date of the letter.
  - e. If no letter of notification of incompleteness is given to the applicant within 5 business days of receipt of initial submittal, the application shall be determined to be submitted as of the date of the submission and processed as prescribed by this Chapter.
- (c) **Re-Submittal after Notification of Incompleteness.** If the required application is re-submitted after a notification of incompleteness within the time allotted in subsection (d), the application shall be processed upon receipt of the re-submittal. No additional determination of completeness shall be made thereafter. However, to the extent that the information or documents submitted is not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.
- (d) **Expiration of Application.**
- (1) An application shall expire on the forty-fifth (45<sup>th</sup>) day after the date the application is submitted if:
    - a. The applicant fails to provide documents or other information necessary to comply with the City's requirements relating to the required application;
    - b. The City has provided to the applicant, not later than the fifth (5<sup>th</sup>) business day after the date the application is submitted, unless otherwise specified, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
    - c. The applicant fails to provide the specified documents or other information within the time provided in the notification.
  - (2) If the required application is not completed by the forty-fifth (45<sup>th</sup>) day after the application is submitted to the responsible official, the required application will be deemed to have expired and it will be returned to the applicant together with any accompanying information.

### Section 19.37.3 Reserved

### Section 19.37.4 Official Application Date

The time period established by State law or this Chapter for a decision approving or denying a plat application shall commence on the date a complete application including the filing fee is accepted by the City. The official application date is the date an application is determined to be complete by the responsible official in the manner prescribed by Section 19.37.2.

### Section 19.37.5 Pre-Application Conference and Vested Rights Waiver

- (a) **Request, Optional.** Prior to the official filing of an application, the applicant(s) may request a pre-application conference with the responsible official in order to become familiar with the City's regulations and the processes.
- (b) **Vested Rights Waiver, Required.**
  - (1) No pre-application conference shall commence or be held unless and until the property owner, or applicant as an authorized agent of the property owner, signs a waiver stating that no vested rights shall accrue from any discussion that occurs at the conference.
  - (2) If the property owner does not sign such waiver, no such conference shall be held, and the property owner or his/her representatives may proceed with his/her application submittal as he/she so chooses.
  - (3) A copy of the vested rights waiver form shall be available in the office of the responsible official.

### Section 19.37.6 Application Contents

- (a) **Application Forms Generally.** The City is hereby authorized to prepare application forms that include information requirements, checklists, drawing sizes, applicant contact information, and any other relevant information, which shall be available in the DSC.
- (b) **Information for All Applications.** All applications shall contain the following information:
  - (1) Identification of property owner and authorized agent, if any;
  - (2) Description of the property and the nature of the development that is the subject of the application;
  - (3) Identification of all zoning classifications (inside the City only) or development agreements for the property;
  - (4) Identification of all pending legislative applications for the property;
  - (5) Identification of decisions on all quasi-judicial or administrative applications for the property that remain in effect;
  - (6) Identification of all accompanying applications;
  - (7) Identification of all pending or accompanying requests for relief;
  - (8) Demonstration of compliance with prior approved permits on the subject property.
  - (9) All requests for Alternative Subdivision Design Approval.
- (c) All application forms are available in the City's Planning Division office and on the City's website.

### Section 19.37.7 Application Fees

Every application shall be accompanied by the prescribed fees set forth in the fee schedule prepared and adopted by the City Council. The prescribed fee shall not be refundable and shall be submitted no later than the date an application is determined to be complete. The fee schedule may be amended from time to time by resolution of the City Council.

### Section 19.37.8 Modification of Applications

The applicant may modify any complete application following its filing and prior to the expiration of the period during which the City is required to act on the application.

- (1) If the modification is for revisions requested by the City, and the modification is received at least five (5) business days prior to the time scheduled for decision on the application, the application shall be decided within the period for decision prescribed by this Chapter.
- (2) In all other instances (e.g., when the applicant chooses to submit a revised application on his own accord), submittal of a modified application shall constitute a new application and any action extend the time for deciding the application for a period equal to the time specified in this Chapter, commencing on the date the modified application is officially submitted. Provided however, if a waiver of the time for decision is first required (the terms of the approved waiver shall govern the period within which the City must act on the application).

### Section 19.37.9 Action by Responsible Official

- (a) **Circulate and Compile Comments.** Following the determination that an application is complete (Section 19.37.2), the responsible official shall circulate the application to all other administrative officials and departments whose review is required for a decision on the application and shall compile the comments and recommendations of the officials.
- (b) **Decision Rendered, If Applicable.** The responsible official shall render a decision in the time prescribed for the applicable application, if the official is the decision-maker for the application.
- (c) **Forward Application and Provide Notification.** In cases where the responsible official is not the decision-maker, the responsible official shall forward the application for review to any advisory board/commission and the final decision-maker, and shall prepare a report to such board or commission, or to the City Council, as the case may be, including the compilation of any comments and recommendations by other administrative officials. The responsible official also shall prepare required notices

and schedule the application for decision within the time and in the manner required by this Chapter.

### **Section 19.37.10 Exemption Determination**

- (a) For any application for a development permit for which exemptions are listed, an exemption from the requirement to apply for such permit or approval shall be determined in the following manner:
- (1) The application for exemption must be submitted on a form supplied by the responsible official, must be accompanied by the review fee set by the City Council, and must include all of the following information:
    - a. Name, address, and telephone number of the property owner and the applicant.
    - b. A brief description of the activity or development for which exemption is sought;
    - c. A scale drawing depicting the boundaries of the site, the location of existing improvements on the site, and the location of the proposed development activities on the site.
    - d. Information establishing the basis for the exemption.
  - (2) The responsible official shall notify the applicant of the decision. If the responsible official denies the application for exemption, the official shall require that an application for the development permit or approval be prepared in accordance with this Code.
- (b) An exemption is a separate and distinct consideration that is differentiated from an Alternative Subdivision Design plan, exception and/or a waiver or application.
- (c) The following sections within this Chapter contain exemptions:
- (1) Section 19.1.3 - Exemptions
  - (2) Section 19.20 – Parkland Dedication, Exemptions
  - (3) Other sections within this ordinance contain exemptions and the criteria for approval.

### **Section 19.37.11 Action by the City Plan Commission**

### **Section 19.37.12 Decision**

The decision-maker for the application shall approve, approve with conditions or deny the application within the time prescribed by this Chapter and applicable state laws regarding same.

### **Section 19.37.13 Conditions**

- (a) The initial or final decision-maker may attach such conditions to the approval of an application as are reasonably necessary to assure compliance with applicable requirements of this Chapter.

### **Section 19.37.14-Certification Regarding Compliance with Plat Requirements.**

- (a) Pursuant to this section, the certificate of compliance shall be issued by the Deputy Director - Planning or City Manager designee within five working days of the recording of the subdivision with the county clerk. The certificate of compliance shall be in the form approved and on file in the Planning Department.
- (b) Platting Determination Application. On the application of an owner of land, a purchaser of real property under a contract for deed, executory contract, or other executory conveyance or an entity that provides utility service, the Deputy Director - Planning shall make the following determinations regarding the owner's land or the land in which the entity or governing body is interested that is located within the corporate limits or extraterritorial jurisdiction: whether a subdivision is required under this title for the land; and if a plat is required, whether it has been prepared and whether it has been reviewed and approved by the City Plan Commission or Deputy Director - Planning or City Manager designee, as applicable.
- (c) Upon the final approval of a subdivision by the City Plan Commission, or the approval of a minor plat by the Deputy Director - Planning or City Manager designee, and the recording of the subdivision with the County Clerk, the Deputy Director - Planning or City Manager designee shall endorse the approved final subdivision with a certificate of compliance stating that the subdivision has been reviewed and approved by the city.
- (d) In cases where the City Plan Commission or other final approving authority fails to act on a final subdivision application within the thirty-day time period as provided in this Chapter, the Deputy Director - Planning or City Manager designee upon a written request by the subdivider, and after the recording of the subdivision with the county clerk, shall issue a certificate of compliance stating the date the subdivision was submitted and that the city plan commission failed to act on the final subdivision application within the specified time period.
- (e) A platting determination application shall be on a form available in the Planning Department, and shall identify the land that is the subject of the request. All applications for a platting determination shall be made in person in the office of the Deputy Director - Planning or City Manager designee.
- (f) If the Deputy Director - Planning or City Manager designee determines that a subdivision is not required, a written certification of that determination shall be issued to the requesting party.

- (g) If the Deputy Director - Planning or City Manager designee determines that a subdivision is required and that the subdivision has been prepared and has been reviewed and approved by the City Plan Commission, or Deputy Director - Planning or City Manager designee where administrative approval is authorized, the Deputy Director - Planning or City Manager designee shall issue to the requesting party a written certification of that determination. Where the Deputy Director - Planning or City Manager designee determines that a subdivision is required and that a subdivision has not been prepared, reviewed and approved, a written certification of that determination shall be made.
- (h) The Deputy Director - Planning or City Manager designee shall make a determination within five working days after the date the application is received and shall issue the platting determination certificate, whether approval or disapproval, within five working days after the date the determination is made. A platting determination certificate shall be in the form approved and available in the Planning Department.
- (i) Fee - A platting determination application shall be accompanied with the appropriate processing fee as established by the City Council. A fee shall also required for requests for copies of certificates of compliance which have already been issued on a property. No fee shall be assessed on a certificate of compliance which has been issued to a subdivider as part of the recording of a subdivision plat as provided for in this Section.

## **Section 19.38 – Notice Requirements**

### **Section 19.38.1 Published Notice for Replats**

Whenever published notice of a public hearing for a replat approval before the City Plan Commission is required under state law, or this Chapter, the responsible official shall cause notice to be published in a newspaper of general circulation in the City before the fifteenth (15<sup>th</sup>) calendar day before the date set for the required hearing. The notice shall set forth the date, time, place and purpose of the hearing, and identification of the subject property, where the decision concerns an individual tract or parcel of land.

### **Section 19.38.2 Personal Notice for Replats**

- (a) Whenever personal notice of a Replat public hearing is required by state law or this Chapter before the City Plan Commission, the responsible official shall cause notice to be sent by regular mail before the tenth (10<sup>th</sup>) calendar day before the hearing date to the following:
- (1) Each owner of real property located within the original subdivision within two hundred feet (200') of the exterior boundary of the property in question.
  - (2) The applicant and/or property owner, and
  - (3) If the matter to be considered is an appeal, to the appellant.
- (b) The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.
- (1) Notice shall be sent to each owner indicated on the most recently approved municipal tax roll for land inside the City limits, and, when required by state law, on the most recently approved El Paso County tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or El Paso County tax roll, notice may be given by publication.
  - (2) Notice shall be considered served by depositing the notice, properly addressed and first class postage prepaid, in the United States mail.

### **Section 19.38.3 Reserved**

### **Section 19.38.4 Notification Following Decision**

Within five (5) business days of the date by a responsible official's or the City Plan Commission determination on an application, written notification of the action shall be mailed to the applicant, stating the action taken. Record of the CPC notification shall be filed with the Executive Secretary of the City Plan Commission on the date of notification.

### **Section 19.38.5 Notification of Appeal or Revocation**

Whenever an appeal is taken from a final decision on a plat or a replat application following a public hearing, or whenever the City is to consider revocation of an approval of a plat, development permit or replat which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided in the manner prescribed by Section 19.38.2.

## **Section 19.39 – Public Hearings**

### **Section 19.39.1 Setting of the Hearing**

When the responsible official determines that an application is complete and that a public hearing is required by this Chapter, the official shall schedule a public hearing with the City Plan Commission, select a place and a time certain for the hearing, and shall cause notice of such hearing to be prepared and made in accordance with this Article. The time set for the hearing shall conform to the time periods required by this Article.

### **Section 19.39.2 Conduct of Hearing**

Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.

### **Section 19.39.3 Record of Proceedings**

The body conducting any required hearing under this Ordinance shall record the proceedings by any appropriate means.

### **Section 19.39.4 Continuance of Proceedings**

The body conducting any required hearing under this Ordinance may, on its own motion or at the request of any person, for good cause, continue the hearing to a reasonable fixed date, time and place. No additional notice shall be required if a hearing is held open and continued in this manner. If a public hearing is closed, no further public testimony shall be taken without a new public hearing to be noticed as required by law.

## **Section 19.40 – Post-Decision Procedures**

### **Section 19.40.1 Amendments and Revisions to Approval**

Unless another method is expressly provided by this Chapter, any request to amend or revise an approved application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is submitted to the City, unless the project has “vested” its rights in accordance with this ordinance and state statute.

## **Section 19.41 – Expiration, Extension, and Reinstatement**

### **Section 19.41.1 Time of Expiration**

- (a) Unless otherwise expressly provided by this Chapter, an approved plat application shall automatically expire on the second (2<sup>nd</sup>) anniversary of the approval date of the application, and shall become null and void, and all activities under the permit thereafter shall be deemed in violation of this Code, if:
- (1) The applicant fails to satisfy any condition that was imposed by this Code or as part of the approval of the application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term, or
  - (2) The applicant fails to submit a subsequent complete application required by this Chapter within the time so required.
  - (3) If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years from the date the application was approved, except as provided in Section 19.41.6.
- (b) Except as provided in Section 19.41.6, or unless a different date is determined pursuant to a vested rights petition under Article 5, an application approved prior to the effective date of this Chapter shall expire in accordance with the terms of the regulations in effect at the time the application was submitted.

### **Section 19.41.2 Effect of Expiration**

Upon the expiration of an approved application, all previously approved applications for the same project shall also expire on the expiration date prescribed in Section 19.41.1 above if the filing of an application was required to avoid expiration for the previously approved application(s), except as provided in Section 19.41.1. Thereafter, a new application for each application that has been deemed to have expired under this section must be approved subject to regulations in effect at the time the new application is submitted.

### **Section 19.41.3 Extension Procedures**

- (a) Unless a different time is expressly provided for a specific procedure by this Chapter, the approving authority for the type of original application may grant an initial extension of the time for expiration of the application for a period not to exceed one (1) year from the date of the expiration of the application, provided that a request for extension is made in writing at least thirty (30) business days before the approved application expires. Every request for extension shall include a statement of the reasons why the expiration date should be extended.
- (b) A second (2<sup>nd</sup>) extension of the expiration date of an officially submitted, complete application may be granted for a period not to exceed one (1) additional year. The extension application must be in writing. Such an extension may be granted by the

approving authority for the type of original application. The decision-maker may grant a request for a second extension upon demonstration that circumstances beyond the control of the applicant have resulted in the permit holder's inability to perform the tasks necessary to prevent the permit from expiring before the expiration date.

- (c) In granting a first extension, the approving authority may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. In granting a subsequent extension request, the approving authority may require that one or more newly adopted development standards be applied to the proposed development, provided, however, that the project has not "vested" its rights in accordance with this ordinance and state statute.

#### **Section 19.41.4 Reinstatement**

- (a) Unless otherwise provided by this Chapter, an applicant may request reinstatement of an expired application by filing a written request with the approving authority within thirty (30) business days of the date of expiration. The request for reinstatement shall include a statement of the reasons why the application should be reinstated and extended. A request for reinstatement shall be processed and decided in the manner provided for an extension of an expiration period for more than one (1) year. The expiration date shall not be extended for more than two (2) years from the date a complete application was officially submitted.
- (b) A reinstatement of an expired application is wholly discretionary, and the approving authority, in determining whether or not to grant reinstatement, shall consider any changes in development conditions in the area, new public health, safety and welfare concerns and regulations, and the application thereof to development of the land

#### **Section 19.41.5 Effect of Decision on Extension or Reinstatement**

The granting of an extension or reinstatement request for a permit also extends or reinstates any other permits otherwise deemed expired under Section 19.41.2. The denial of an extension or reinstatement results in the immediate lapse of the permit and any other permits deemed expired under Section 19.41.2. Thereafter, the applicant shall file a new application for a permit or permits before undertaking any activity authorized by the lapsed permit.

#### **Section 19.41.6 Expiration for Projects Commenced On or After September 1, 2005**

- (a) Notwithstanding any other provision of this Chapter, for any approved application for which no expiration date was in effect on September 1, 2005, an expiration date two

- (2) years following the date of approval of the permit shall apply, unless the holder of the permit files a petition before such date for a vested rights determination pursuant to Article 5 of this Chapter, alleging that progress has been made toward completion of the project for which the application subject to expiration was submitted. If a vested rights petition is timely submitted, the City Council shall determine the expiration date of the permit in deciding the petition.
- (b) Notwithstanding any other provision of this Chapter, once a permit has expired under subsection (a), all previously approved applications for the same land also shall expire no later than five (5) years from the date of filing of the first application for the project for which the expired application was submitted, unless the holder of such permit(s) files a petition before such date for a vested rights determination pursuant to Article 5 of this Chapter, alleging that progress has been made toward completion of the project for which the applications subject to expiration were submitted. If a vested rights petition is timely submitted, the City Council shall determine the expiration date of the previously approved permits in deciding the petition.
- (c) Progress toward completion of a project shall mean that any of the following events have occurred within relevant time periods:
- (1) An application for a Final Plat or plan has been submitted to the city, and remains in effect at the time the vested rights petition was submitted;
  - (2) A good faith attempt is made to file an application with the City to continue the project;
  - (3) Costs have been incurred by applicant for developing the project, including without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
  - (4) Fiscal Security is posted with the city to ensure performance of an obligation, and remains in effect at the time the vested rights petition was submitted; or
  - (5) Utility connection fees or other fees for the project have been paid and have not been refunded.

## **Section 19.42 – Enforcement, Penalty and Revocation of Permits**

### **Section 19.42.1 Enforcement Activities**

Employees of the Development Services Department, Building Permits & Inspections or Planning Division and other enforcing officers, as defined, are authorized to issue municipal court citations for violations of this article and to bring to the attention of the city attorney, and any other appropriate authority, any violations or lack of compliance with these regulations. Any department, agency, employee or enforcement officer of the city having information regarding an alleged violation to this Chapter, shall report that information to the chief enforcement officer or department designated by the city manager to assist in the enforcement of these requirements.

### **Section 19.42.2 Right to Enter**

The authorized official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Chapter. Submittal of any application that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible official to enter on land subject to the application for purposes of enforcing the approved permit.

### **Section 19.42.3 General Remedies**

If the land is used or developed or if any building or structure is erected or constructed, in violation of this Chapter or any application approved hereunder, in addition to other remedies, the City may institute any appropriate action or proceedings to prevent or abate such activity. Appropriate action or proceedings include termination of utility services (water, gas, electric); revocation of permits, licenses, or bonds; and institution of legal action in a court of competent jurisdiction.

### **Section 19.42.4 Stop Work Orders**

- (a) Whenever any construction or development activity is being done contrary to any term, condition or requirements of an approved application and/or this Chapter, the enforcing officer may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by the enforcing officer

- to proceed with the work. This prohibition shall extend throughout any appeal period.
- (b) The owner or authorized agent may appeal the stop work order to the authorized official by giving written notice. The City Plan Commission shall meet within fifteen calendar days after the date the completed application for appeal is received by the secretary.
  - (c) The City Plan Commission shall reach a decision without unreasonable or unnecessary delay. A copy of the decision shall be delivered by certified mail or personal delivery to the applicant. The decision of the City Plan Commission shall be final but may be appealed to a court of competent jurisdiction.
  - (d) The enforcement officer may require the placement of temporary erosion control, drainage protection or other measures by the owner or appellant in order to protect the site and the community resources during the appeal period.
  - (e) The Application for each appeal must be signed and be accompanied by payment of a nonrefundable application fee established by appropriate resolution of the City Council

#### **Section 19.42.5 Court Actions**

- (a) The City Attorney is authorized to prosecute violations of this Chapter in the appropriate court where jurisdiction lies for the action.
- (b) In prosecutions for violations of this Chapter, it shall not be necessary to allege or prove a culpable mental state, as said requirement is hereby waived.

#### **Section 19.42.6 Civil Court Actions**

The City Attorney is authorized to file and prosecute an action at law or in equity, where permitted under the laws of Texas, in a court of competent jurisdiction to enforce the provisions of this Chapter. The initiation of one form of enforcement action by the City Attorney will not preclude the City Attorney from initiating any other form of enforcement action.

#### **Section 19.42.7 Fines and Penalties**

- (a) Violations of provisions of this Chapter or failure to comply with any of its requirements shall constitute a misdemeanor and punished by a fine not to exceed two thousand dollars. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined in accordance with Section 19.44 and the City Code. An offense under this title is a Class C misdemeanor.
- (b) Each calendar day such violation continues shall be considered a separate offense.

- (c) The owner or owners of any building or premises or part thereof, where anything in violation of this Chapter shall be placed or shall exist, any architect, builder, contractor, agent, persons or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be fined as herein provided. This subsection does not apply to enforcement of a regulation in the City's extraterritorial jurisdiction.
- (d) Civil Enforcement. Nothing herein contained shall prevent the City from taking any other lawful action necessary to prevent or remedy any violation. Appropriate actions and proceedings may be taken by the city in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described in this section
- (e) It is further the intent and declared purpose of this Chapter that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time that the previous regulations were repealed and this Chapter adopted shall be discharged or affected by such repeal, but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted, and causes presently in process may be prosecuted in all respects as if such previous regulations had not been repealed.

### **Section 19.42.8 Review of Prior Plat Approval**

- (a) If an authorized official determines that there are reasonable grounds for revocation of an approved preliminary or final plat application, which plat has not been filed of record the City may initiate a review and ask for corrections to the plat or revoke the approval of a preliminary or final plat. Circumstances that warrant review of an approved application shall include the following:
  - (1) A material mistake was made in approving the application;
  - (2) Approval of the application was procured on the basis of material misrepresentations or fraud on the part of the applicant;
  - (3) Development activities being undertaken on the land subject to the development permit are not in conformity with terms of the approved application;
  - (4) The use authorized by the permit is in violation of a condition of approval of the approved application;
- (b) All review and recommendations for changes or corrections, or actions seeking to revoke a preliminary or final plat which has not been filed of record shall be conducted at a public hearing before the City Plan Commission. The applicant and any interested parties shall be given notice of the hearing in the manner provided in this Chapter, Section 19.38. The public hearing shall be conducted in accordance with the procedures described in this Chapter, Section 19.39

- (c) Action where Plat has been filed of record. Where an authorized official determines that there are reasonable grounds for revocation of a plat which has been filed of record, staff shall consult on the matter with legal counsel for enforcement.
- (d) In rendering its decision whether to request revisions to or revoke the approved plat, the City Plan Commission shall determine whether the Preliminary or final plat complies with the terms, conditions and requirements of this Chapter. The Commission may revoke the application, affirm it, or affirm it with attached conditions that assure that the terms; conditions and requirements of this Chapter shall be met.
- (e) Following a decision to require corrections or changes to a previously approved plat, or a decision to revoke a plat, and pending any appeal, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved application without applying for and obtaining approval of a new application. Appeal from a decision to require corrections or changes to an approved plat, or to revoke the approved plat application shall be to the City Council.

#### **Section 19.42.9 Exemption**

This Section does not apply to zoning applications or building permits issued under separate ordinance or provision of the City Code.

## **Section 19.43 – Text Amendments**

### **Section 19.43.1 Amendments to this Chapter**

The City Council may from time to time amend, supplement, or change the text of this Chapter by a majority vote of its members, unless a different vote is otherwise required by this Chapter, the City Charter, or other law. A request for an amendment to this Code shall not be considered an application for a plat approval or permit.

### **Section 19.43.2 Hearing and Notice**

The City Council shall adopt text amendments to the ordinance in the same manner as the original ordinance was adopted.

### **Section 19.43.3 Recommendation of Advisory Board/Commission**

Where required by this Chapter, the City Charter, or other law, the City Council shall first consider the recommendation of the City Plan Commission, together with the recommendations of any other advisory board/commission prescribed by this Code, concerning the proposed text amendment

### **Section 19.43.4 Initiation of Text Amendments**

Unless otherwise limited by this Chapter, a petition for amending the text of this Chapter may be initiated by the City Council; the City Plan Commission; a board; commission or advisory board/commission; an ad hoc advisory board/commission appointed by the City Council; a responsible official designated in this Code; any citizen or owner of land within the City limits; or any citizen or owner of land within the City's extraterritorial jurisdiction (for a regulation that applies to the ETJ).

- (1) Except for amendments initiated by the City Council, the petition to amend the text of this Chapter shall state with particularity the nature of the amendment and the reason for the amendment.
- (2) A petition for a text amendment may be submitted in conjunction with an application, approval of which depends on approval of the amendment, but shall in every such instance be decided prior to any action by the City on the application.
- (3) The City Council may establish rules governing times for submission and consideration of text amendments and fees.

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## **Article 5 – Relief Procedures**

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### **Section 19.45 – Appeals**

#### **Section 19.45.1 Appeals, Purpose Applicability and Effect**

- (a) **Purpose.** The purpose of an appeal is to contest most administrative any decision on an application based upon alleged misapplication of the criteria for approval of the application. An appeal shall not be used as a means of amending, varying or otherwise altering the standards of this Chapter or the DSC that apply to the application..
- (b) **Applicability.** Unless otherwise provided by this Chapter, any final administrative decision on an application by a City official including a determination by the responsible official that a proposed development is exempt from one or more applications, may be appealed in accordance with Section 19.45.2 (a) to the City Plan Commission. Final decisions on an application by the City Plan Commission may be appealed to the City Council only if expressly provided for in these regulations.
- (c) **Effect.** The granting of an appeal supersedes the previous decision and results in the approval, conditional approval or denial of the application for which approval was sought.
- (d) An appeal under this Section does not constitute an appeal for a determination on vested rights, or the proportionality of infrastructure requirements.

#### **Section 19.45.2 Appeal Requirements**

- (a) **Who May Appeal.** The applicant may appeal a final decision on an application to the appellate authority designated by this article, if any.
- (b) **Form of Appeal.** The appeal shall contain a written statement of the reasons why the final decision is erroneous, and shall be accompanied by the fee established by the City Council. An appeal by an applicant shall be accompanied by a copy of the application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant.
- (c) **Time for Filing Appeal.** A written appeal must be submitted to the responsible official within ten (10) business days from the date of notification of the final decision on the application.

### Section 19.45.3 Processing of Appeal and Decision

- (a) **Responsible Official.** The responsible official for an appeal is the person designated by this Chapter for processing of the application at issue in the appeal. Upon receipt of a written appeal, the responsible official shall compile all documents constituting the record of the decision on appeal and transmit the record to the appellate authority.
- (b) **Stay of Proceedings.** Receipt of a written appeal of a decision on an application stays all proceedings of the City in furtherance of the decision from which appeal is taken, including without limitation, acceptance, processing or issuance of any applications that are dependent on the application being appealed, and any development activities authorized by initial approval of the application.
- (1) The stay shall be lifted only if the responsible official certifies in writing to the appellate authority that a stay would cause imminent peril to life or property.
  - (2) Thereafter, the stay may be reinstated only by order of the appellate authority or a court of record, on application, after notice to the responsible official, for due cause shown.
- (c) **Hearing and Notice.** Notification of the appeal and conduct of the hearing thereon shall be in accordance with Sections 19.38 and 19.39 of this Chapter. The initial hearing on the appeal shall be held within twenty-five (25) business days after the filing of the appeal with the responsible official, unless a different time is prescribed by the provisions of this Section.
- (d) **Decision on Appeal.** The appellate authority shall decide the appeal within thirty (30) business days. The appellate authority shall affirm, reverse or modify the decision from which the appeal was taken..
- (e) **Notification of Decision on Appeal.** The appellant and the applicant for the development permit shall be notified of the decision on appeal in the manner provided in Section 19.38.4.

### Section 19.45.4 Criteria

In deciding the appeal, the appellate authority shall apply the same criteria that govern the initial decision on the application under the provisions of this Ordinance.

### Section 19.45.5 Expiration and Extension

For purposes of determining the expiration or extension periods under this Chapter, the date of the appellate authority's granting of relief on an appeal is the date on which the application is deemed approved.

## **Section 19.46 – Proportionality Appeal**

### **Section 19.46.1 Policy Established Appeal Requirements**

#### **Adequate Public Facilities Policy.**

- (1) Adequate Service for Areas Proposed for Development.
  - a. Land proposed for development in the City and the City's Extraterritorial Jurisdiction must be served adequately by essential public facilities and services, including parks, water and wastewater, roadway, and drainage facilities.
  - b. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site.
- (2) Responsibilities of the Developer to Provide Adequate Facilities. The developer shall be responsible for the following to ensure the facilities provided are adequate:
  - a. Phasing of development or improvements in order to ensure the provision of adequate public facilities;
  - b. Extensions of public facilities and roadways (including any necessary onsite and off-site facilities) to connect to existing public facilities or roadways;
  - c. Providing and/or procuring all necessary property interests, including rights-of-way and easements, for the facilities (whether on-site or offsite);
  - d. Providing proof to the City of adequate public facilities;
  - e. Making provisions for future expansion of the public facilities as needed to serve future developments, subject to the City's oversize participation regulations (e.g., when the City will provide for the cost of oversizing facilities), if applicable;
  - f. Providing for all operations and maintenance of the public facilities, or if the City is not the provider, providing proof that a separate entity will be responsible for the operations and maintenance of the facilities;
  - g. Providing all fiscal Security, if required, for the construction of the public facilities;
  - h. Obtaining approvals from any applicable utility providers other than the EPWU; and
  - i. Complying with all requirements of utility providers, including the City or other applicable providers.
- (3) Responsibilities of the Developer to Conform to Adopted Plans. The developer shall ensure that facilities provided are in conformance with the City's adopted plans, ordinances and regulations.

- a. Proposed facilities serving new development shall conform to and be properly related to the public facility elements of the City's adopted Comprehensive Plan; other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.
- b. The design and construction of all water and wastewater facilities to serve the subdivision shall be in conformance with the City's and EPWU's master plans for water and wastewater facilities and with the City's and EPWU's technical specifications

### Section 19.46.2 Purpose, Applicability and Effect

- (a) **Purpose.** The purpose of a proportionality appeal is to assure that the application of uniform dedication and construction standards to a proposed development projects does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.
- (b) **Applicability.** An appeal under this section may be submitted by a property owner or applicant to contest any requirement to dedicate land or to construct public improvements for dedication to the public that is imposed to a plat application or to any related development application authorized by the City, whether the requirement is under uniform standards, or attached as a condition to approval of a permit. An appeal under this section shall not be used to waive standards on grounds applicable to any petition for an Alternative Subdivision Designs, waiver, or exception as found in other sections of this Chapter.
- (c) **Effect.** If the relief requested under the appeal is granted in whole or in part by the City Council, the dedication, fee or construction requirement initially imposed shall be modified accordingly. In the event the original application was denied by the decision-maker based upon the property owner's failure to incorporate the dedication or construction requirement in the proposed permit or plat, the application shall be remanded to the original decision-maker for a decision consistent with the relief granted by the Council.

### Section 19.46.3 Appeal Requirements

- (a) **Who May Apply.** A property owner or applicant may appeal when a dedication or construction requirement has been applied to development application, a plat, or is the basis for denying the plat application.
- (b) **Form of Appeal.** The appeal shall allege that application of the standard relating to the dedication, fee or construction requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, stormwater, parks, or roadway system, as the case may be, or does not reasonably benefit the proposed development.
- (c) **Study Required.** The petitioner shall provide a study in support of the petition for relief that includes the following information:

- (1) Impact of the proposed development on the capacity of the City's water, wastewater, stormwater, parks, or roadway system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
  - (2) Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
  - (3) Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.
- (d) **Time for Filing Appeal and Study.** An appeal shall be filed with the responsible official within ten (10) business days from the date the requirement to dedicate land or to construct public improvements for dedication to the public is imposed on the applicant. The study in support of the petition shall be filed within sixty (60) business days of the initial decision, unless the petitioner seeks an extension in writing. The responsible official may extend the time for submitting the study for a period not to exceed an additional thirty (30) business days for good cause shown.

#### Section 19.46.4 Processing of Appeals and Decision

- (a) **Responsible Official.** The City Engineer Subdivision Improvement Plan Engineer is the responsible official for processing a proportionality appeal.
- (b) **Evaluation, Recommendation.** The City Engineer Subdivision Improvement Plan Engineer shall evaluate the appeal and supporting study and shall make a recommendation to the City Plan Commission and City Council based upon the information contained in the study, any comments received from El Paso County, and the Director's analysis.
- (c) **Decision-Maker.** The City Council shall decide the appeal.
- (d) **Hearing.** The City Council shall conduct a hearing in accordance with Section 19.39 of this Chapter within sixty (60) business days after the study supporting the petition is submitted to the City Engineer Subdivision Improvement Plan Engineer.
- (e) **Burden of Proof.** The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.

- (f) **Decision.** The City Council shall consider the petition for relief from a dedication, fee or construction requirement based upon the following criteria:
- (1) The City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such City's water, wastewater, stormwater, parks, or roadway system, and reasonably benefits the development.
  - (2) In making such determination, the Council shall consider the evidence submitted by the applicant, any testimony submitted by the applicant, the City Engineer Subdivision Improvement Plan Engineer's report and recommendation and, where the property is located within the City's extraterritorial jurisdiction, any recommendations from El Paso County.
- (g) **Action.** Based on the criteria in (e) above, the City Council shall, within 30 days following the Hearing, take one of the following actions:
- (1) Deny the petition for relief, and impose the standard or condition in accordance with the initial decision; or
  - (2) Grant the petition for relief, and waive any dedication or construction requirement to the extent necessary to achieve proportionality; or
- (h) **Notification of Decision on Petition.** The petitioner shall be notified of the decision on the petition for relief in the manner provided in Chapter 19.38 of the Subdivision Ordinance, within ten (10) business days of the decision.
- (i) **Effect.** The relief granted on the petition shall remain in effect for the period the plat or related approved development application is in effect, and shall expire upon expiration of the plat or related application.

## **Section 19.47 – Vested Rights**

### **Section 19.47.1 Appeals, Purpose Applicability and Effect**

- (a) **Purpose.** The purpose of a vested rights petition is to determine whether one or more standards of this Subdivision Ordinance should not be applied to an application as defined by State law, or whether certain permits are subject to expiration.
- (b) **Applicability.** A vested rights petition may be filed for an application, permit, plan or plat authorized under this Subdivision Ordinance, filed in accordance with the Texas Local Government Code, Chapter 245 or successor statute.
  - (1) A vested rights petition also may be filed prior to expiration of certain permits pursuant to Section 19.41.6.
  - (2) A vested rights petition may not be filed with a petition for a text amendment, a zoning map amendment or any other request for a legislative decision by the City Council.
- (c) **Effect.** Upon granting of a vested rights petition in whole or in part, the responsible official shall process the application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards, or extend the permit that would otherwise be subject to expiration pursuant to Section 19.41.6.

### **Section 19.47.2 Petition Requirements**

- (a) **Who May Petition.** A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with any application identified in this ordinance or by the holder of a permit subject to expiration pursuant to Section 19.41.6.
- (b) **Form of Petition.** The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
  - (1) A narrative description of the grounds for the petition;
  - (2) A copy of each approved or pending application which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;
  - (3) The date of submittal of the application for the permit, or of a development plan pursuant to which the permit was subsequently filed, if different from the official filing date.

- (4) The date the project for which the application for the permit was submitted was commenced.
  - (5) Identification of all standards otherwise applicable to the application from which relief is sought;
  - (6) Identification of any current standards which petitioner agrees can be applied to the application at issue;
  - (7) A narrative description of how the application of current standards affect proposed use of the land, landscaping or tree preservation, open space, or park dedication, lot size, lot dimensions, lot coverage or building size shown on the application for which the petition is filed; and
  - (8) A copy of any prior vested rights determination involving the same land.
  - (9) Whenever the petitioner alleges that a permit subject to expiration under Section 19.41.6 should not be terminated, a description of the events constituting progress toward completion of the project for which the permit subject to expiration was approved.
- (c) **Time for Filing Petition.** A vested rights petition shall be filed with an application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any permit when filed pursuant to Section 19.41.6. Where more than one application is authorized to be filed by this Subdivision Ordinance, the petition may be filed simultaneously for each application.

### Section 19.47.3 Processing of Petitions and Decision

- (a) **Responsible Official.** The responsible official for a vested rights petition is the Director for Development Services, except where a petition is submitted pursuant to Section 19.41.6. The responsible official shall promptly forward a copy of the vested rights petition to the City Attorney following acceptance.
- (b) **Initial Decision.** The responsible official is the decision-maker on the application, and shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and setting forth the decision on the petition, which shall be delivered to the applicant within ten (10) business days of the date the vested rights petition is accepted for filing.
- (c) **Appeal of Decision on Petition.** The petitioner may appeal the responsible official's decision on the vested rights petition within ten (10) business days of the date of such decision to the City Council in accordance with the procedures in Chapter 19.45. The City Council shall decide the petition within thirty (30) business days of receipt of the notice of appeal.
- (d) **Effect on Related Applications.** A final decision on the vested rights petition or appeal under this Section is an application requirement for any related application. No related application shall be deemed complete without such decision having been made.

**Section 19.47.4 Action on Petition and Order**

- (a) **Action on the Petition.** The decision-maker on the vested rights petition may take any of the following actions:
- (1) Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards;
  - (2) Grant the relief requested in the petition, and direct that the application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
  - (3) Grant the relief requested in part, and direct that certain identified current standards be applied to the application, while standards contained in identified prior regulations also shall be applied; or
  - (4) For petitions filed pursuant to Section 19.41.6, specify the expiration date or the conditions of expiration for the permit(s).
- (b) **Order on Petition.** The responsible official's report and each decision on the vested rights petition shall be recorded in writing in an order identifying the following:
- (1) The nature of the relief granted, if any;
  - (2) The approved or filed application(s) upon which relief is premised under the petition;
  - (3) Current standards which shall apply to the application for which relief is sought;
  - (4) Prior standards which shall apply to the application for which relief is sought, including any procedural standards;
  - (5) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
  - (6) To the extent feasible, subordinate applications that are subject to the same relief granted on the petition; and
  - (7) For petitions filed pursuant to Section 19.41.6, the date of expiration of the permit or permits.

**Section 19.47.5 Criteria for Approval**

- (a) **Factors.** The decision-maker shall decide the vested rights petition based upon the following factors:
- (1) The nature and extent of prior applications filed for the land subject to the petition;

- (2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
  - (3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
  - (4) Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space, or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed application;
  - (5) Whether any statutory exception applies to the standards in the current Subdivision Ordinance from which the applicant seeks relief;
  - (6) Whether any prior approved applications relied upon by the petitioner have expired;
  - (7) For petitions submitted pursuant to Section 19.41.6 whether any of the events in Section 19.47.8 have occurred;
  - (8) Any other provisions outlined in the Texas Local Government Code Chapter 245 or successor statute.
- (b) **Conditions.** If the claim of vested rights under a petition is based upon a pending application subject to standards that have been superseded by current standards under this Subdivision Ordinance, the decision-maker may condition any relief granted on the petition on the approval of the application under such prior standards.

### **Section 19.47.6 Application Following Final Decision on Petition**

- (a) Following the City's final decision on the vested rights petition, the property owner shall conform the application for which relief is sought to such decision..
- (b) The decision-maker on the application shall consider any application revised under this Subsection in accordance with the procedures for deciding the initial application under this Subdivision Ordinance and in conformity with the relief granted on the petition.
- (c) If the relief granted on the vested rights petition is consistent with the application on file, no revisions are necessary.
- (d) If proceedings have been stayed on the application pending referral of the vested rights petition to the City Council, proceedings on the application shall resume after the City Council's decision on the vested rights petition.

**Section 19.47.7 Dormant Projects**

- (a) Permit under this section means a license, certificate, approval, registration, consent, permit, contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.
- (b) Unless another provision of this Title places an expiration date on a permit, permits issued by the City shall expire two years after the issuance of a permit if no progress has been made towards completion of the project.
- (c) Unless another provision of this Title places an expiration date on a project, a project shall expire after the fifth anniversary of the date in which the first permit application was filed for the project if no progress has been made towards completion of the project.
- (d) Progress towards completion of the project shall include any one of the following:
  - (1) an application for a final plat or plan is submitted to a regulatory agency;
  - (2) a good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
  - (3) costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
  - (4) fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
  - (5) utility connection fees or impact fees for the project have been paid to a regulatory agency

## **Section 19.48– Petition for Waivers or Exceptions**

### **Section 19.48.1 Purpose, Applicability and Effect**

- (a) **Purpose.** The purpose of a petition for a waiver or exception to the standards or requirements of this ordinance is to determine whether one or more standards applicable to plats within this Chapter should not be applied to an application.
- (b) **Applicability.** An applicant may file a petition for waiver or exception of one or more standards applicable to a Preliminary Plat, or where no Preliminary Plat application has been submitted for approval, to the standards applicable to a Final Plat in accordance with Section 19.4 and 19.8.
- (c) A petition for a waiver or exception shall not be accepted for a vested rights or proportionality determination under this Section.

### **Section 19.48.2 Application and Decision Maker**

- (a) The waiver or exception petition shall be decided by the City Plan Commission in conjunction with the application for approval of the Preliminary Plat.
- (b) A request for a waiver or exception pursuant to this section shall be submitted in writing by the subdivider with the filing of a subdivision application. The request shall state fully the grounds for the waiver or exception request and all of the facts relied upon by the subdivider. No waiver or exception may be considered or granted by the city plan commission unless the subdivider has made written request for such request at the time of the subdivision application submittal, or an amended subdivision application submittal.

### **Section 19.48.3 Criteria for Approval**

- (a) The following criteria shall be applied in deciding a waiver or exception:
  - (1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land such that the strict application of the provisions of this Chapter to the proposed use would create an unnecessary hardship or inequity upon or for the applicant, as distinguished from a mere inconvenience, in developing the land or deprive the applicant of the reasonable and beneficial use of the land;
  - (2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the applicant's land;
  - (3) The waiver or exception is necessary for the preservation and enjoyment of a substantial property right of the applicant;
  - (4) Granting the waiver or exception will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;

- (5) Granting the waiver or exception will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Chapter, or adversely affect the rights of owners or residents of surrounding property;
  - (6) The hardship or inequity is not caused wholly or in substantial part by the applicant;
  - (7) The request for a waiver or exception is not based exclusively on the applicant's desire for increased financial gain from the property, or to reduce an existing financial hardship; and
  - (8) The degree of variation requested is the minimum amount necessary to meet the needs of applicant and to satisfy the standards in this section.
- (b) Such findings by the City Plan Commission shall not have the effect of nullifying the intent and purpose of these regulations; the granting of the waiver or exception of conditions will not be detrimental to the public safety, health or welfare or injurious to other property; the relief sought will not in any manner vary the provisions of any other city ordinance or regulation, The Plan for El Paso, or the official zoning map of the city, except that those documents may be amended in the manner prescribed by law; and further provided, that the City Plan Commission shall not approve a waiver or exception unless it shall make findings based upon the evidence presented in each specific case.
- (c) **Burden of Proof.** The applicant bears the burden of proof to demonstrate that the application of a construction requirement that is uniformly applied imposes a disproportionate burden. The subdivider must also demonstrate an alternative method of development that will improve the aesthetic value of the subdivision while giving equal emphasis to safety, economy, tax yield, maintenance cost, response time, drainage, vehicular access and pedestrian passage.
- (d) **Decision.** The City Plan Commission shall consider the waiver or exception petition and, based upon the criteria set forth in Subsection (a) above, shall take one of the following actions:
- (1) Deny the petition, and impose the standard or requirement as it is stated in this Chapter; or
  - (2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this Chapter. In approving a waiver or exception, the City Plan Commission may require such conditions as will, in its judgment, secure substantially the purposes described in this section.
- (e) **Notification of Decision on Petition.** The applicant shall be notified of the decision on the waiver or exception petition in the manner provided in Section 19.38.4.

### **Section 19.48.4 Effect of Approval**

**Effect.** The waiver or exception granted shall remain in effect for the period the plat or related approved application is in effect, and shall expire upon expiration of the plat or related application. Extension of the plat also shall result in extension of the relief granted on the petition.

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## Article 6 – Definitions

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### Section 19.50.1 Usage and Interpretation

- (a) **Usage.** The following definitions are intended to provide descriptions for words and terms used within this Chapter. Absent any conflict, words and terms used in this Chapter shall have the meanings ascribed thereto in this Chapter.
- (b) **Conflicts.** When words and terms are defined herein, and are also defined in other ordinance(s) of the City, shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this Chapter shall control.
- (c) **Present and Past Tenses.** Words used in the present tense include the future; words in the singular number include the plural number, and words used in the plural number include the singular number.
- (d) **Specific Word Usage.** The word shall is mandatory and not directory. The word structure includes the word building.
- (e) **Words Not Defined.** For any definition not listed in this Section of this Chapter, the definition found within the latest edition of Webster's Dictionary shall be used.

### Section 19.50.2 Definitions in Other Locations within this Chapter

For the purpose of this Chapter, certain terms and words are to be used and interpreted as defined within the articles or sections of this Chapter wherein they apply to certain regulations. These sections include but are not limited to "**Subdivision Ordinance, Dormant Projects,**" specifically within Section 19.47.8

**Section 19.50.3 Definitions**

- (1) **ABUTTING:** As defined in the Zoning Ordinance, also meaning "adjacent", "adjoining" and "contiguous to". It may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, arroyo or open space.
- (2) **ACCESS or Accessway, public or private:** As defined in the Zoning Ordinance. A means of approaching or entering a property. Includes a right of passage to and from an adjacent street, alley, or property.
- (3) **ACCESSORY:** Being secondary or subordinate to something else.
- (4) **ACREAGE, GROSS:** As defined in the Zoning Ordinance, meaning the total area within a parcel of land.
- (5) **ACREAGE, NET:** The total area within a parcel of land, less any rights-of-way, open space or land dedicated to public use.
- (6) **ALLEY:** As defined in the Zoning Ordinance. A public way which is used primarily for vehicular access to the back or side of properties, and affords only secondary means of access to property abutting thereon.
- (7) **AMENDING PLAT:** See *Plat, Amending*.
- (8) **AMENITY:** Aesthetic or other physical improvements to a development that increase its quality, desirability, and/or marketability to the public. Amenities may vary according to the type and nature of development, and examples include a naturalized retention/detention pond (refer to definition herein), a recreational facility, landscaping, or large trees.
- (9) **APARTMENT:** See *Dwelling - Multi-Family*.
- (10) **APPEAL:** A request for review of and relief from any decision applying a provision of this Code and which is authorized pursuant to this Chapter, Article 5.
- (11) **APPLICATION, COMPLETE:** See *Complete Application*
- (12) **APPROVAL:** "Approval" of any application, subdivision improvement plans, plat etc constitutes a determination by the official, board, commission or City Council responsible for such determination that the application or plans are in compliance with the minimum provisions of Title 19. Such approval is not an "approval" of the engineering or surveying contained in the plans as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.
- (13) **AREA OF LOT:** See *Lot Size*.
- (14) **AREA REGULATIONS:** The regulations controlling minimum lot area, minimum lot depth and width, maximum building area or coverage, as well as required front, side and rear yards, as contained in this ordinance and in the Zoning Ordinance.
- (15) **ARROYO:** An arroyo, also called a wash or draw, is a usually dry creek bed or gulch that temporarily fills with water after a stormwater runoff event (see Stormwater), or seasonally as such, the term is similar to the word "wadi".

Arroyos can be natural or man-made. The term usually applies to a mountainous desert environment.

- (16) **AS-BUILT/RECORD DRAWINGS:** A group of drawings that depicts the final configuration of the installed or constructed improvements of a development, improvements which have been verified by the contractor as their installation or construction occurs during development. The as-built or record drawings should reflect the construction plans (or working drawings) used, corrected, and/or clarified in the field. For the purposes of this Chapter, the terms "as-built drawing" and "record drawing" shall be interchangeable.
- (17) **ARTERIAL THOROUGHFARE:** See *Street, Arterial*
- (18) **ASSOCIATION:** Usually a homeowners (HOA) or property owners association (POA). An incorporated or unincorporated non-profit organization operating under recorded land agreements through which: a) each lot owner in a planned unit or other described land area is automatically a member; b) each lot is automatically subject to a charge for a proportionate share of expenses for the organization's activities such as maintaining common property, and (c) the charge, if unpaid, becomes a lien against the property.
- (19) **BIKELANE:** A portion of a street that has been designated for exclusive use by bicycles, and which is distinguished from the rest of the roadway by a painted stripe, lane markings or other similar devices.
- (20) **BLOCK:** An area enclosed by streets. If said word is used as a term of measurement, it shall mean the distance along a side of a street between two (2) intersecting streets, or if the street is of a dead-end type, a block shall be considered to be measured between the nearest street and the end of such dead-end street.
- (21) **BLOCK LENGTH:** The distance, as measured along the street centerline, from one end of a row or group of lots to the other end. A block is determined by the streets along its boundary which surround one or more lots. Such streets shall be through streets, not cul-de-sac streets. A block adjacent to a cul-de-sac shall not be counted as a block.
- (22) **BOND:** See *Security*.
- (23) **BUILDING:** Any structure permanently affixed to a lot or lots and having a roof supported by columns or walls, for the housing or enclosure of persons, animals or property of any kind.
- (24) **BUILDING or BUILDABLE AREA:** The portion of a lot or site, excluding required yard areas, setbacks or open space within which a structure may be built.
- (25) **BUILDING CODE:** All regulations adopted under the International Building Code of the El Paso Code of Ordinances.
- (26) **BUILDING LINE:** A line at a specified distance from the street, marking the minimum distance from the street line that a building may be erected.

- (27) **BUILDING PERMIT:** An instrument in writing signed by the Deputy Director – Building Permits & Inspections or other designated responsible official authorizing described construction on a particular lot.
- (28) **CENTERLINE, STREETS OR ALLEYS:** An imaginary line erected midway between the bounding right-of-way lines of a street or alley. Where the bounding right-of-way lines are irregular, the centerline is to be determined by the Subdivision Improvement Plan Engineer. Where the street is private, the centerline shall be measured from the easement boundaries rather than right-of-way.
- (29) **CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN):** A permit issued by the Texas Commission on Environmental Quality (TCEQ) which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer utility service to a specified geographic area.
- (30) **CERTIFICATE OF OCCUPANCY:** A written instrument executed by the Deputy Director – Building Permits & Inspections authorizing a described use of a lot or building as set forth in the Building Code and in this Chapter.
- (31) **CERTIFY:** Whenever it is required that an agent or official attest to the existence of some fact or circumstance, the City by administrative rule may require that such declaration be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the declaration.
- (32) **CITY:** The City of El Paso, Texas.
- (33) **CITY COUNCIL:** The elected body that governs the City of El Paso under state law and charter and is authorized to adopt ordinances. It is responsible for the acceptance and maintenance of any offered dedications indicated on a plat by entry use or improvement within the City Limits.
- (34) **CITY ENGINEER:** See *Subdivision Improvement Plan Engineer*.
- (35) **CITY MANAGER:** That person holding the office of City Manager under the terms of the El Paso Charter.
- (36) **CITY PLAN COMMISSION:** The appointed board also known as the Planning and Zoning Commission under state law which is responsible for subdivision approval within the Corporate Limits of El Paso and within the Extraterritorial Jurisdiction (ETJ)
- (37) **CITY PLANNER:** See *Deputy Director - Planning*.
- (38) **CITY SECRETARY:** That person holding the office of City Secretary under the terms of the El Paso Charter, or an authorized representative.
- (39) **CITY STANDARDS:** All of the City's technical standards and specifications that apply to development, together with all tables, drawings, and other attachments. All City standards described or referred to in this Chapter are adopted by reference and are a part of this Chapter in the same way as if they were set out at length herein. See also the *City of El Paso Design Standards for Construction (DSC)*.

- (40) **CLEARING:** The removal of surface vegetation without modifying, impacting, or improving the drainage pattern(s).
- (41) **CLUSTER DEVELOPMENT:** See *Subdivision, Cluster*.
- (42) **CODE:** The adopted code of ordinances of the City of El Paso titled The El Paso Municipal Code.
- (43) **COLLECTOR STREET:** See *Street, Collector*.
- (44) **COMMENCE(ING) CONSTRUCTION:** The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction or development.
- (45) **COMMERCIAL UNIT DEVELOPMENT:** A platted lot, zoned for commercial, manufacturing or industrial uses, which is further divided into more than one lot and where all additional lots are provided access to a public or private street through a private easement. The access shall be a parcel of land over which a private easement for road purposes, having a minimum paved width of twenty feet, is granted to all owners of property within the commercial unit development. In each instance the instrument creating such private easement, including the original agreement and any changes thereto resulting from the sale, lease or creation of additional lots, shall be held in perpetuity between all signatories, owners or lessees, to the agreement or their successors in interest, shall run with the land and be unseverable, and shall be duly recorded and filed with the office of the county clerk.
- (46) **COMMISSION:** See *City Plan Commission*.
- (47) **COMPLETE APPLICATION:** An application that meets the standards of the Chapter and has been deemed complete by the City in accordance with Section 19.37.2 of this Chapter and the Texas Local Government Code, Chapter 245, or successor statute.
- (48) **COMPREHENSIVE PLAN:** The official El Paso Comprehensive Plan titled "The Plan for El Paso" as defined in the Zoning Ordinance.
- (49) **CONCEPT PLAN:** A component of the regulations for a Planned Development District that complies with the requirements of the Zoning Ordinance and the Subdivision Ordinance that illustrates elements of the proposed Planned Residential District, such as the location and arrangement of uses, the relationship of such uses to base zoning districts, development phasing, planned public improvements, open space, proposed amenities and the overall design of the development.
- (50) **CONSTRUCTION:** See *Development*
- (51) **CONSTRUCTION PLANS:** *The drawings and technical specifications that conform to this Chapter and all other applicable ordinances of the City of El Paso. Construction plans, including bid documents and contract conditions, where applicable, provide a graphic and written description of the character and scope of the work to be performed in construction of a development. See also Plans, Subdivision Improvement.*

- (52) **CORNER LOT:** See *Lot, Corner*.
- (53) **CORPORATE LIMITS:** *The boundaries of the City of El Paso.*
- (54) **COUNCIL:** See *City Council*.
- (55) **COUNTY:** The County of El Paso, Texas
- (56) **COUNTY COMMISSIONERS' COURT:** The court of the county of El Paso which is responsible for the maintenance of any offered dedications indicated on a plat by entry, use, or improvement within the extraterritorial jurisdiction
- (57) **COVENANT, RESTRICTIVE:** Also referred to as a "deed restriction." A restriction on the use of land usually set forth or referred to in the deed. Such covenants shall run with the land and are binding upon present and subsequent owners of the property.
- (58) **CUL-DE-SAC:** A local street having one (1) inlet/outlet to another street and terminated on the opposite end by a vehicular turnaround. A cul-de-sac has no intersections with other streets other than the one inlet/outlet.
- (59) **DEED RESTRICTION:** See *Covenant, Restrictive*
- (60) **DENSITY:** The number of dwelling units that may be constructed per acre, calculated by dividing the site area by minimum required lot area in the underlying zoning district.
- (61) **DEPTH OF LOT:** See *Lot Depth*.
- (62) **DEPUTY DIRECTOR – BUILDING PERMITS & INSPECTIONS:** The *Deputy Director for Building Services*, the individual that is the head of the Building Permits and Inspection Division and who ensures compliance with the Building Code of the City of El Paso, Texas, and with any applicable regulations within this Chapter. This definition also includes any designee of the Building Official.
- (63) **DEPUTY DIRECTOR - PLANNING:** The Deputy Director of the Department of Development Services, Planning Division, or an authorized designee, appointed by the City Manager to coordinate the subdivision review process, gather all staff comments and recommendations and convey such recommendations to the City Plan Commission and City Council. The Deputy Director - Planning is also authorized under this ordinance to approve certain plats.
- (64) **DESIGN STANDARDS FOR CONSTRUCTION, EL PASO (DSC):** The detailed specifications, procedures and standards approved administratively for the purpose of regulating the design and construction of specified improvements. The DSC also includes checklists and application forms for approvals required by this ordinance. The El Paso Design Standards for Construction are incorporated by reference to this Chapter and are found in the office of the Subdivision Improvement Plan Engineer or on the web.
- (65) **DEVELOPER:** A person or governmental entity undertaking the division or improvement of land and other activities covered by this Chapter, including the preparation of a plat showing the layout of the land and the public improvements

involved therein. The term “developer” is intended to include the terms “subdivider” and, when submitting platting documents, “applicant.”

- (66) **DEVELOPER AGREEMENT:** An agreement, other than a “Development Agreement” or a “Developer Participation Agreement,” between the City and a property owner through which the City or property owner agrees to a schedule of improvements, a phasing of a project or any other agreement between the parties.
- (67) **DEVELOPER PARTICIPATION AGREEMENT:** An agreement between the City and a property owner through which the City or property owner agrees to pay a proportional percentage of a required public improvement or public amenity or for a portion of improvements in excess of those required under current ordinance.
- (68) **DEVELOPMENT:** Initiation of any activities related to the platting or subdivision of land or construction, reconstruction, conversion, or enlargement of buildings or structures, the construction of impervious surfaces (e.g., parking lots), the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including without limitation removal of vegetation, grading, paving, clearing, filling, or removal of soil, and any mining, dredging, excavation or drilling operations.
- (69) **DEVELOPMENT AGREEMENT:** An agreement authorized and in accordance with Section 212.172 of the Texas Local Government Code between the City and a property owner in the extra-territorial jurisdiction.
- (70) **DEVELOPMENT APPLICATION:** Either a petition for a legislative decision, such as a zoning amendment, or an application for a development permit, such as a plat or a building permit.
- (71) **DEVELOPMENT COORDINATING COMMITTEE:** Also known as the “DCC.” The committee of the City comprised of representatives of City departments and may include other agencies which are responsible for recommending implementation of subdivision ordinance requirements.
- (72) **DEVELOPMENT, INFILL:** A new development on scattered or aggregated vacant parcels of land in a built up area.
- (73) **DEVELOPMENT PERMIT:** A decision by the Commission, Board or responsible official designated by this Chapter, acting in an administrative or quasi-judicial capacity, that authorizes the holder of the permit to undertake one or more development activities or to file further applications needed to initiate or continue development activities authorized under this Chapter. The filing of a complete application for a development permit may or may not stay the City from adopting new standards applicable to the permit or any subordinate permit, depending on the nature of the standards.
- (74) **DEVELOPMENT PLAN:** *See Land Study.*
- (75) **DEVELOPMENT STANDARDS:** All regulations, design standards, requirements and restrictions that apply to a development.

- (76) **DIRECTOR:** The Director of the Development Services Department of the City of El Paso, Texas, or his/her authorized designee.
- (77) **DRIVEWAY:** An entranceway serving primarily vehicles that allows for access to a lot or facility, and is intended for vehicular movements between the roadway and any portion outside the street right-of-way.
- (78) **DWELLING:** A building, structure or portion thereof, designed or used primarily for residential occupancy with culinary and bathroom facilities. A dwelling does not include boats, trailers, motor homes, hotels, motels, motor lodges, boarding or lodging houses.
- (79) **DWELLING - MULTIPLE-FAMILY (APARTMENT):** As defined in the Zoning Ordinance. A building, or portion thereof, designed or used for occupancy by three or more families, all living independently of each other in separate dwelling units.
- (80) **DWELLING - SINGLE-FAMILY:** As defined in the Zoning Ordinance. A building designed for or occupied exclusively by one family.
- (81) **DWELLING - SINGLE-FAMILY DETACHED:** As defined in the Zoning Ordinance. A dwelling unit for one family that is not attached to any other dwelling unit.
- (82) **DWELLING - TOWN HOME or TOWNHOUSE:** As defined in the Zoning Ordinance. A single-family dwelling designed to be sold as a unit, but forming one of a group or series of three or more attached single-family dwellings separated from one another by common property lines.
- (83) **EASEMENT, EMERGENCY ACCESS:** An area created by plat or separate instrument filed with the office of the county clerk other than a dedicated street or place, or an alley, which is maintained free and clear of buildings, structures and other obstructions for the purpose of providing free passage of service and emergency vehicles.
- (84) **EASEMENT PRIVATE:** A right-of-way granted for the limited use of private land where general use and maintenance of such right-of-way is governed by an agreement which runs with the land. For the purposes of a commercial unit development, a private easement is in-severable there from, and is recorded with the Office of the County Clerk. A private easement may include certain improved portions of private land which are intended for the general use, enjoyment, convenience and benefit of all signatories, owners and lessees, and their permittees, including to but not limited to, parking areas and spaces, roadways (including roads or lateral access drives), driveways, entrances to dedicated public or private streets, sidewalks, landscaped areas, and truck loading or delivery areas.
- (85) **EASEMENT PUBLIC:** An easement dedicated by subdivision plat or metes and bounds to and for use by the public, and which is included within the dimensions or area of lots or parcels.

- (86) **EASEMENT, UTILITY:** An easement dedicated by subdivision plat or metes and bounds to and for use by the public solely for utilities, either public or franchise, and which is included within the dimensions or area of lots or parcels.
- (87) **EL PASO WATER UTILITIES (EPWU):** The Public Service Board established May 22, 1952 by City ordinance 752 to manage and operate the water and wastewater system for the City of El Paso.
- (88) **ENFORCING OFFICER:** The designated official of the City of El Paso or his/her designated representative that ensures that regulations are adhered to and standards required are met.
- (89) **ENGINEER:** A person who has been duly licensed by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas. (Also known as "Engineer", "Professional Engineer", "Registered Engineer", "Registered Professional Engineer", or "Licensed Engineer")
- (90) **ENVIRONMENTAL PROTECTION AGENCY (EPA):** The U.S. Environmental Protection Agency, or, where appropriate, the administrator or other duly authorized official of that agency.
- (91) **ERECT:** To construct, reconstruct, install or build.
- (92) **EROSION:** The wearing away of land surface by detachment and transport of soils by water and wind.
- (93) **ETJ:** See *Extraterritorial Jurisdiction*.
- (94) **EXCAVATION:** Any digging, trenching, scraping or other activity that disturbs natural soil or rock to a depth of two feet (2') or more, other than soil disturbance incidental to the removal of trees or vegetation.
- (95) **EXCEPTION:** A grant of relief to a person from the requirements of this Ordinance under certain conditions when specific enforcement would result in unnecessary hardship. An exception, therefore, permits construction or development in a manner otherwise prohibited by this Ordinance. Also, see *Waiver*.
- (96) **EXEMPTION:** A specified reason why a particular development is not subject to the requirements to plat or to a specific provision of this ordinance.
- (97) **EXTRATERRITORIAL JURISDICTION (ETJ):** The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City of El Paso, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distance of five (5) miles as stipulated in Chapter 42 of the Texas Local Government Code and in which area the City may regulate subdivisions and enjoin violation of certain provisions of this Chapter.
- (98) **FAMILY:** As defined in the Zoning Ordinance. Any individual or group of persons related by blood, adoption or marriage, or not more than five unrelated persons living as a single housekeeping unit or home.
- (99) **FARM, AGRICULTURAL:** An area used for the production thereon of farm crops such as vegetables, fruit trees, cotton, or grain, and the storage of such crops.

- (100) **FARM, RANCHING AND LIVESTOCK:** An area used for the raising thereon of the usual farm animals such as horses, chickens, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing animals on the premises, but not including within the City Limits the commercial feeding of offal or garbage to swine or other animals and not including any type of husbandry specifically prohibited by ordinance or law.
- (101) **FILING:** See *Submission*.
- (102) **FILING, PLAT:** See *Recording*
- (103) **FINAL PLAT:** See *Plat, Final*.
- (104) **FREEWAY:** See *Street, Freeway*.
- (105) **FRONTAGE, LOT:** As defined in the Zoning Ordinance. The distance for which the front boundary line of the lot and the street line are coincident.
- (106) **FRONTAGE, STREET:** As defined in the Zoning Ordinance. All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or, if the street is dead-ended, then all the property abutting on one side between an intersecting street and dead-end of the street.
- (107) **GRADE:** The horizontal elevation of any surface specified in percentage terms.
- (108) **GRADE, BUILDING:** The average elevation of the highest and lowest elevation measured at the finished surface of the ground at any of the exterior corners of the building or structure.
- (109) **GRADING:** Any excavating or filling or combination thereof, including a) the conditions resulting from any excavation or fill, or b) any alteration of the natural drainage pattern, or c) the removal or rearrangement of surface soil.
- (110) **GROUND COVER:** A spreading plant, including sods and grasses less than 18 inches in height, used mainly for erosion control.
- (111) **IMPERVIOUS COVER:** See *Coverage*.
- (112) **IMPROVED LOT OR TRACT:** A lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.
- (113) **IMPROVEMENT:** Any man-made fixed item which becomes part of or placed upon real property.
- (114) **IMPROVEMENT, PUBLIC:** Any improvement, facility or service together with its associated public site, right-of-way or easement necessary to provide transportation, drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the City may ultimately assume the responsibility for maintenance and operation or ownership, or both.

- (115) **IMPROVEMENT, TEMPORARY:** Improvements built and maintained by a subdivider during construction of the subdivision and removed prior to the acceptance of the improvements for maintenance or the release of any bond required if they are located within the subdivision. Temporary improvements built outside of the subdivision shall be removed when they are no longer necessary as approved by the Subdivision Improvement Plan Engineer.
- (116) **INTERESTED PERSON:** A person who is affected by a final decision of the City to the extent that such impact exceeds the impact of the decision on a member of the general public. An interested person may include any officer or agency of the City.
- (117) **INTERSECTION:** The junction of any two public rights-of-way crossing at grade.
- (118) **LANDLOCK:** to prevent access to a lot or parcel of land, which has no other legal surface access to a public street.
- (119) **LANDSCAPING:** An area devoted to and maintained predominantly with living plant material including lawn, groundcover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements. Also may be referred to as *Landscaped Area*.
- (120) **LAND STUDY:** The initial plan for a subdivision to be developed in phases that delineates the sequence and timing of development within the proposed subdivision and that is reviewed and decided under Section 19.2 of this Chapter. It is a plan submitted for the purpose of implementing an integrated development scheme for all phases of a proposed development and to foster general consensus regarding compliance with this Chapter. For the purpose of vesting, a Land Study must meet all requirements of this ordinance.
- (121) **LAND USE:** The purpose for which land, or the structure on the land, is being utilized.
- (122) **LOT:** An undivided tract or parcel of land that is or may be offered for sale, conveyance, transfer or improvement and is designated as a distinct and separate tract, and which is identified by a tract, lot number, or symbol in a duly approved subdivision or development plat that has been properly filed of record. Such land is occupied or intended to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot areas as are required by as the Zoning Ordinance, and having frontage on a public accessway either shown on a plat of record or described by metes and bounds. Provided, however, that access may be provided through a private easement in a commercial unit development or in an alternative subdivision design in accordance with this ordinance.
- (123) **LOT AREA:** The square foot area or the acreage of a lot within the bounding property lines and exclusive of dedicated streets and alleys, but may include easements.

- (124) **LOT, CORNER:** A lot abutting upon two (2) or more streets at their intersection(s), as defined in the Zoning Ordinance.
- (125) **LOT COVERAGE:** See *Coverage*.
- (126) **LOT DEPTH** - As defined in the Zoning Ordinance. The distance between the front and rear lot lines, measured as follows:
- (a) Where the lot lines are straight, from the midpoints thereof;
  - (b) Where the lot line curves in or out, from the midpoint of the arc between the side property lines;
  - (c) Where there is no rear lot line, the lot depth shall be the length of a straight line connecting the bisecting point of the front lot line and the intersection of the two sidelines.
- (127) **LOT, DOUBLE FRONTAGE:** As defined in the Zoning Ordinance. Any lot having frontage on two streets which are nonintersecting or which intersect at an angle of less than or equal to seventy degrees with reference to the lot, as distinguished from a corner lot.
- (128) **LOT, FLAG-SHAPED OR PANHANDLE:** An irregularly shaped lot that takes its sole access via a long, narrow strip of land connecting the principal building site to a public street.
- (129) **LOT, INTERIOR:** As defined in the Zoning Ordinance. Any lot having frontage on one street only.
- (130) **LOT, KEY OR KEYED:** Any lot having an essentially trapezoidal shape, with a rear boundary greater in width than the front boundary and located on a street curve having a centerline radius less than two hundred and fifty feet (250').
- (131) **LOT LINE:** A property (ownership) boundary of a lot, as defined herein.
- (132) **LOT OF RECORD:** Means a lot shown upon a plan of subdivision or upon a plat attached or referred to in a deed described by metes and bounds in a deed recorded with the county clerk prior to the date of passage of the first El Paso subdivision ordinance or a tract specifically provided for in this ordinance.
- (133) **LOT, SUBSTANDARD:** A lot that has less than the minimum area or minimum dimensions required in this Chapter or in the zoning district in which it is located.
- (134) **LOT WIDTH, AVERAGE:** As defined in the Zoning Ordinance. The lot area divided by the lot depth.
- (135) **MANUFACTURED HOME:** As defined in the Zoning Ordinance as a *Dwelling – Manufactured Home (HUD-Code)*. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).

- (136) **MANUFACTURED/MOBILE HOME PARK:** As defined in the Zoning Ordinance. A parcel of ground, not a part of a manufactured home subdivision, providing sites for the parking or location of one or more occupied manufactured homes, travel trailers, recreation vehicles and similar units.
- (137) **MANUFACTURED/MOBILE HOME SUBDIVISION:** A tract of land, laid out in accordance with this Subdivision Ordinance of the City of El Paso, intended for the specific purpose of providing individual lots for the placement of manufactured/mobile homes.
- (138) **MAXIMUM:** For the purposes of this ordinance, “the maximum” is the amount that is required by this ordinance of a developer but a developer may choose to construct or provide less than the maximum unless otherwise specified.
- (139) **MEDIAN:** A strip of land that separates the opposing flows of traffic on a street, with level or depressed areas within it.
- (140) **MEDIAN, FLUSH:** A median which is level with the surface of the street and created by using header curbing, striping or other approved material.
- (141) **MEDIAN, RAISED:** A median which is created by using standard curbing.
- (142) **METES AND BOUNDS:** A method of describing the boundaries of land by directions and distances from a known point of reference.
- (143) **MINOR PLAT:** See *Plat, Minor*.
- (144) **MINIMUM:** For the purposes of this ordinance, “the minimum” is the amount that is required of a developer but a developer may choose to construct or provide additionally above the minimum required unless otherwise specified.
- (145) **MOBILE HOME:** As defined in the Zoning Ordinance. A structure constructed before 1976 and regulated by the Texas Department of Housing and Community Affairs.
- (146) **MODIFICATION:** The making of a limited change, either required by ordinance or voluntary by the applicant, in a plat submission or set of subdivision improvement plans.
- (147) **MUNICIPAL UTILITY DISTRICT (MUD):** A political subdivision of the State of Texas authorized by the Texas Commission of Environmental Quality (TCEQ) to provide water, sewage, drainage and other services within the MUD boundaries
- (148) **OCCUPANCY:** Any utilization of real property.
- (149) **OFFICIAL SUBMITTAL DATE:** The date an applicant delivers the application or plan to the City or deposits the application or plan with the United States Postal Service by certified mail addressed to the City with all required fees and documents as stated on the application form, as described by Section 19.37.4 of this Subdivision Ordinance. The official submittal date is also subject to complete application provisions within this Chapter; see the definition of Complete Application as well as requirements within Section 19.37.2 of this Chapter.

- (150) **OFF-SITE:** Any premises not located within the area of the property to be subdivided, whether or not in common ownership with the applicant for subdivision approval.
- (151) **OPEN SPACE:** As defined in the Zoning Ordinance and further defined as an area that is intended to provide light and air and is designed for either scenic or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, desert areas, foothills, walkways, active and passive recreation areas, playgrounds, fountains, river banks, swimming pools, wooded areas and water courses. Open space shall not include driveways, parking lots or other surfaces designed or intended for vehicular travel, or storage.
- (152) **OPEN SPACE, COMMON:** A parcel or parcels of land, or an area of water in combination with land, within a site designed and intended for the use and enjoyment of residents and owners belonging to an association as defined herein. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents and owners belonging to an association. Also may be referred to as *Common Area*. Also see the Zoning Ordinance
- (153) **OPEN SPACE, PRIVATE:** As defined in the Zoning Ordinance. An area that is intended to provide light and air and is designed for either scenic or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, desert areas, foothills, walkways, active and passive recreation areas, playgrounds, fountains, river banks, swimming pools, wooded areas and water courses. Open space shall not include driveways, parking lots or other surfaces designed or intended for vehicular travel, or storage.
- (154) **OPEN SPACE, PUBLIC:** As defined in the Zoning Ordinance. The land dedicated to and accepted by the City of El Paso that is specifically designated as open area to remain undisturbed in its natural state.
- (155) **OPEN SPACE RATIO/PERCENTAGE:** The square foot amount of open space for each square foot of floor area within lot boundaries. This may be expressed as a percentage of open space within lot boundaries.
- (156) **OPEN SPACE, USABLE:** An open area or recreational facility that is designed and intended to be used for outdoor, active or passive, recreation purposes. An area of usable open space has a slope that does not exceed ten percent (10%), and no dimension of less than ten feet (10'). An area of usable open space may also include landscaping elements (e.g., trees, ground cover), trails, recreational facilities, water features and decorative objects such as art or fountains.
- (157) **OWNER:** The legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site
- (158) **PARCEL:** A contiguous tract of land owned by or recorded as the property of the same person(s) or controlled by a single entity.
- (159) **PARK AND/OR PLAYGROUND:** A publicly or privately operated recreation facility, including any land area, which is designed to serve the recreation needs of

El Paso citizens and visitors. Such park or playground may be private, used for the exclusive use of private residents or neighborhood groups and their guests and not for use by the general public. Such park or playground may be public, used by the general public without membership or affiliation.

- (160) **PARK ZONE:** The residential areas surrounding a proposed or existing park or other recreational facility that can reasonably derive benefit from that park or other recreational facility pursuant to the El Paso Comprehensive Park and Open Space Plan. The City has divided its Corporate Limits into one (1) square mile park zones which shall be used for acquisition or development of parkland or other recreational facilities; where credit may be applied as part of an off-site dedication of parkland or other recreational facilities; or where bonus reductions for recreational improvements to parkland or other recreational facilities may be given. (Editor's note: This may need to be revised with the new plan and standards}
- (161) **PARKING AREA or PARKING LOT:** As defined in the Zoning Ordinance. An area, not including a street or alley right-of-way, containing one or more parking spaces for motor vehicles, designed in accordance with the requirements of Chapter 20.14, and intended as an accommodation for patrons, customers, and employees, either with or without a charge for such accommodation.
- (162) **PARKING SPACE, OFF STREET:** As defined in the Zoning Ordinance. An area, not including a street or alley right-of-way, permanently reserved for the temporary storage of one motor vehicle, meeting all of the requirements of Chapter 20.14.
- (163) **PARKWAY:** As defined in the Zoning Ordinance. That area of street right-of-way between the property line and the curb or, in the absence of a curb, between the property line and the nearest edge of the street paving.
- (164) **PEDESTRIAN WAY:** A specifically designated place, path, means, or way by which pedestrians shall be provided safe, adequate and usable circulation through the interior of a property or development and outside any portion of an accessway.
- (165) **PERFORMANCE GUARANTEE:** See *Security*
- (166) **PERMIT:** The written governmental permission required for undertaking any land development activity issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such permission.
- (167) **PERMIT, BORROW OR WASTE:** As defined and governed in Title 18, Grading, of the El Paso Municipal Code.
- (168) **PERMIT, CLEARING AND ACCESS:** As defined and governed in Title 18, Grading, of the El Paso Municipal Code.
- (169) **PERMIT, FINAL GRADING:** As defined and governed in Title 18, Grading, of the El Paso Municipal Code.
- (170) **PERMIT, PREFINAL GRADING:** As defined and governed in Title 18, Grading, of the El Paso Municipal Code.

- (171) **PERMIT, SITE PREPARATION:** Any permit or series of permits issued under Title 18 and/or this Chapter, that authorizes site preparatory activities other than construction or placement of a structure on the land under one or more site plans and that, upon approval, authorizes the property owner to apply for a construction permit.
- (172) **PERSON:** A human being, his/her heirs, executors, administrators, or assigns and also includes a firm, partnership, corporation or other legal entity authorized by law, its or their successors or assigns, or the agent of any of the aforesaid.
- (173) **PETITION FOR RELIEF FROM DEDICATION OR CONSTRUCTION REQUIREMENT:** A request for relief from a requirement imposed under this Chapter to dedicate or construct a public improvement based on constitutional standards, and that is reviewed and decided under this Chapter, Section 19.46.
- (174) **PLANNING DIRECTOR:** See *Deputy Director - Planning*.
- (175) **PLAN, DRAINAGE SHED CONTROL:** A conceptual plan for the development of storm water infrastructure as provide for in Section 19.19 of this Chapter.
- (176) **PLAN, MASTER GRADING:** A conceptual plan which shows the proposed phased grading and its effect on adjacent properties.
- (177) **PLAN, TEMPORARY AND PERMANENT EROSION CONTROL:** A plan which shows erosion control measures proposed for the period before and after improvements are completed
- (178) **PLANS, SUBDIVISION IMPROVEMENT:** The plans required by the City for the construction and installation of public improvements necessary to provide required services for proper development; including, but not limited to plans for grading, drainage facilities, water and sewer, open space, parks or other recreational space, streets and illumination of streets. See also Construction Plans.
- (179) **PLAT:** A map, drawing or plan showing the exact layout and proposed construction of a proposed development into one or more lots, blocks, streets, parks, school sites, commercial or industrial sites, easements, alleys and/or any other elements as required by this Chapter and which a subdivider shall submit for approval in accordance with this Chapter.
- (180) **PLAT, AMENDING:** A plat with minor changes to a recorded subdivision as itemized and authorized in Section 19.7.4 of this Chapter.
- (181) **PLAT, DEVELOPMENT:** A plat required prior to development in accordance with Texas Local Government Code, Chapter 212.045 in lieu of other plats required by this ordinance in accordance with Section 19.5.
- (182) **PLAT, FINAL:** The plat of a subdivision for which platting is required which, when authorized, submitted and approved as regulated by this Chapter, Section 19.4, will be recorded in the official public records. Such plat is a final plat submitted under state statute and is subject to the 30 day approval limitation. A combination plat comprised of the preliminary and final plats, as authorized and approved under this ordinance, shall also constitute a final plat.

- (183) **PLAT, PRELIMINARY:** A plat that illustrates and thereby assures the general layout of a proposed subdivision, the adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the applicable requirements of this Chapter and that is reviewed and decided prior to approval of a Final Plat. This type of plat is authorized under Section 19.3 of this Chapter.
- (184) **PLAT, MINOR:**\_\_A plat dividing land into no more than four (4) lots that meets the submission and approval requirements of Section 19.6 of this Chapter. Such plat is considered the final plat submitted under state statute and is subject to the 30 day approval limitation.
- (185) **PLAT, RECORDED:** A plat that has received all approvals required by this ordinance and has been filed with the County Clerk of the County of El Paso. Recording of a plat creates buildable lots with legal descriptions and dedicates rights-of-ways and easements to the use of the public.
- (186) **PLAT, VACATED:** A subdivision which is vacated through the procedures described in this Chapter and is made legally void.
- (187) **POND, DETENTION:** A manmade or natural reservoir, either public or private, designed to restrict the flow of storm water to a prescribed maximum rate through a controlled release by gravity, and to concurrently detain the excess waters that accumulate behind the control structure. Further defined within the *City of El Paso Design Standards for Construction (DSC)*.
- (188) **POND, RETENTION:** A manmade or natural reservoir, either public or private, designed to completely retain a specified amount of storm water runoff without gravity release. Further defined within the *City of El Paso Design Standards for Construction (DSC)*.
- (189) **POND, AMENITIZED DETENTION/RETENTION:** An area that is designed to capture, store and release stormwater and that is designed as a site amenity by being aesthetically pleasing, by providing recreational or aesthetic value, and by being constructed to seem natural (i.e., without visible concrete). Such areas have a natural edge and are designed to resemble a naturally created lake or pond. Also refer to the definition of *Amenity* above.
- (190) **PONDING, ON-SITE:** The process of containing surface water runoff within individual lots.
- (191) **PRELIMINARY PLAT:** See *Plat, Preliminary*.
- (192) **PROJECT:** A land development project
- (193) **PROPERTY LINE:** As defined in the Zoning Ordinance. The official boundary of a parcel, lot, or tract of land as designated by either a metes and bounds description or recorded subdivision plat filed in the records and maps of the county clerk.
- (194) **PROPERTY OWNER:** The person(s) with legal title to the property, whether or not the person is in possession of the property.

- (195) **PROPORTIONAL SHARE:** The developer's portion of the costs of an exaction or public improvement as determined and in accordance with Texas Local Government Code 212.904 and considered to be the "roughly proportional share" of such exaction or public improvement that is created by a proposed development or subdivision.
- (196) **PUBLIC IMPROVEMENT DISTRICT (PID):** An assessment district set up under state law and the authority of the City to finance certain public improvements with assessments on property within the district, based on the benefit to the individual properties.
- (197) **PUBLIC RIGHT-OF-WAY:** See *Right-of-way, Public*.
- (198) **PUBLIC UTILITY:** As defined in the Zoning Ordinance. A closely regulated enterprise existing under the provisions of Chapter 402 of the Texas Local Government Code or of Title 32, Chapter 10 of the Texas Revised Civil Statutes, which provides to the public a utility service deemed necessary for the public health, safety, and general welfare. For purposes of this section, a municipality owning or operating a public utility system or an entity with a franchise with the municipality to provide a public utility system shall be considered a public utility.
- (199) **PUBLIC UTILITY FACILITY:** As defined in the Zoning Ordinance. The buildings, structures and facilities relating to the furnishing of public utility services to the public.
- (200) **PUBLIC UTILITY SERVICE:** As defined in the Zoning Ordinance. A service essential to the health, safety and general welfare of the public, such as the generation, transmission and/or distribution of electricity, gas, steam, communications, and water; the collection and treatment of sewage and solid waste; the collection, storage or diversion of surface waters from land; and the provision of mass transportation.
- (201) **RECORD DRAWINGS:** See *As-Built/Record Drawings*.
- (202) **RECORDING:** The act of processing a subdivision plat, which has been approved by the City as required by this Chapter, as an official record in the Deeds and Records Section of the Office of the County Clerk.
- (203) **REMAINDER TRACT:** Land that is part of a larger parcel that is not subject to a subdivision plat affecting the parcel.
- (204) **REPLAT:** To resubdivide all or any part of a recorded subdivision, that is beyond the definition of an amending subdivision and which does not require the vacation of the entire preceding plat.
- (205) **RESUBDIVISION:** See *Replat*.
- (206) **RESIDENTIAL USE:** The use of land by a dwelling unit or group of dwelling units.
- (207) **RESPONSIBLE OFFICIAL:** The City staff person who has been designated by the City Manager to accept a type of development application for filing, to review and make recommendations concerning such applications, and where authorized,

to initially decide such applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of this Chapter with respect to such development applications. Also includes any designee of the designated City staff person.

- (208) **RIGHT-OF-WAY, PUBLIC:** A use of land dedicated by subdivision plat or metes and bounds to and for use by the public and which right-of-way is separate and distinct from the lots and parcel abutting it and not included within the dimensions or areas of such lots or parcels.
- (209) **ROADWAY:** The paved area of a street between the face of the curb lines including the driving and parking lanes which is provided for the movement of vehicles.
- (210) **ROADWAY, CENTERLINE:** See *Centerline*.
- (211) **ROUTE, ACCESSIBLE:** A continuous unobstructed path connecting all accessible elements and spaces of a building, facility or site:
- (212) **SCREENING:** As defined in the Zoning Ordinance. A hedge, earth berm, wall or fence constructed in accordance with the requirements of the ordinance codified herein to provide a visual separator or physical barrier.
- (213) **SCREENING WALL:** A solid vertical barrier constructed of masonry materials that is intended to separate and limit visibility between that which is on either side of the barrier, for example adjacent land uses or particular site elements.
- (214) **SECURITY:** A surety instrument or other financial mechanism to guarantee performance of an act or construction of required improvements in accordance with Section 19.8.4, and in an amount and form satisfactory to the City Plan Commission, the City Council or the County Commissioner's Court as applicable
- (215) **SETBACK LINE:** Also referred to as "setback." As defined in the Zoning Ordinance. The distance between a structure and the nearest lot line.
- (216) **SEWAGE:** See *Wastewater*.
- (217) **SHOPPING CENTER:** As defined in the Zoning Ordinance and further defined as a commercial development such as a strip center, mall, or multi-tenant retail building, in which two (2) or more separate retail businesses occupy a single or multiple structures which share on-site parking and common driveways.
- (218) **SIDEWALK:** A hard surface area other than a roadway, used for the movement of pedestrians.
- (219) **SITE:** A tract of property that is the subject of a development application.
- (220) **SITE DEVELOPMENT PLAN:** The final step of the development process within a zoning district, if required by the zoning or this ordinance.
- (221) **SITE PLAN:** A scaled and detailed drawing that conforms to the requirements of this Chapter, and that shows the roads, parking, footprints of all buildings, existing trees, proposed landscaping, parkland, open space, grading and drainage, and similar features needed to verify compliance with the City's approved Comprehensive Plan and development standards.

- (222) **SITE PREPARATION PERMIT:** See *Permit, Site Preparation*.
- (223) **STORMWATER:** The surface drainage runoff or flow created from any form of precipitation accumulation including rain, snow, sleet and/or hail that exceeds the interception by vegetation and infiltration into the soil. The following definitions are applicable to the management of stormwater and apply to any stormwater requirement contained in this ordinance, in Section 19.19, Stormwater or in the DSC. All other definitions shall be in accordance with Article 6.
- a. **Applicant:** A person submitting a post-development stormwater management application and plan for approval.
  - b. **Channel:** A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
  - c. **Drainage Design Manual (DDS):** The detailed specifications, procedures and standards approved administratively for the purpose of regulating the design and construction of specified stormwater and drainage improvements. The Drainage Design Manual is incorporated by reference to this Chapter and is found in the office of the Subdivision Improvement Plan Engineer or on the web.
  - d. **Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:
    - (1) The overflow of inland or tidal waters;
    - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - e. **Floodplain Manager:** The Texas licensed professional engineer designated by the City Manager as the Responsible Official and Initial Decision-Maker to administer and implement the provisions of Chapter 18.60 and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.
  - f. **Inspection and Maintenance Agreement:** A written agreement providing for the long-term inspection and maintenance of storm water management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the Chapter to a site or other land involved in a land development project.
  - g. **Non-point Source Pollution:** A form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Non-point source pollution is a by-product of land use practices such as agricultural, mining, construction, subsurface disposal and urban runoff sources.
  - h. **Nonstructural Stormwater Management Practice or Nonstructural Practice:** Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited

to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

- i. **Post-development:** The time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.
- j. **Pre-development:** The time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.
- k. **Redevelopment:** A land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional non-point source pollution.
- l. **Runoff:** Stormwater runoff.
- m. **Site:** The parcel of land being developed, or the portion thereof on which the land development project is located.
- n. **Stormwater Management:** The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, stream bank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.
- o. **Stormwater Administrator:** The person designated by the City Manager to be the responsible official and initial decision maker for applications pertaining to drainage plans and other drainage decisions as may be required in Title 18 Building and Construction and Section 19.19 Storm Water Management Requirements.
- p. **Stormwater Management Facility:** Any infrastructure that controls or conveys stormwater runoff.
- q. **Stormwater Management Measure:** Any stormwater management facility or nonstructural stormwater practice.
- r. **Stormwater Management Plan:** A document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this ordinance.
- s. **Stormwater Management System:** The entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.
- t. **Stormwater Runoff:** The flow of surface water resulting from precipitation.
- u. **Structural Stormwater Control:** A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

- (224) **STREET:** The entire width between property lines when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic. This definition shall include public as well as private streets. An "Alley" is not considered to be a street, and is separately defined herein.
- a. Street, Arterial. A street designed to accommodate cross-city traffic movement, distributing traffic to and from collector streets, as indicated by the El Paso Comprehensive Plan or any individual element thereof.
  - b. Street, Boulevard. A street, similar to an arterial and designed to accommodate cross-city traffic movement, distributing traffic to and from collector streets, as indicated by the El Paso Comprehensive Plan or any individual element thereof. A boulevard, however, is designed with marginal access roads and medians and parkways which are landscaped to provide a more aesthetic streetscape.
  - c. Street, Collector. A street designed to collect traffic from local streets (i.e., subcollector and local) and connect with arterial streets and freeways, as indicated by the El Paso Comprehensive Plan or any individual element thereof.
  - d. Street, Freeway. An access controlled, high speed street designed to accommodate cross-country and/or limited cross-city traffic movement, with grade separation at major intersections, as indicated by the El Paso Comprehensive Plan or any individual element thereof.
  - e. Street, Local. A street designed exclusively to provide direct access to abutting property.
  - f. Street, Subcollector. A street designed, generally, to accommodate traffic movement from local streets to higher classifications of streets as well as provide direct access to activity on abutting lots. Specifically, a subcollector is any street or portion thereof designed exclusively to provide direct access to property within nonresidential zoning districts, any street or portion thereof providing the shortest direct route to a collector street for twenty-five (25) or more dwelling units, or any street segment extending without offset and connecting two or more collector streets.
- (225) **STREET CENTERLINE:** See *Centerline*.
- (226) **STREET, PRIVATE:** As defined in the Zoning Ordinance. A privately owned accessway within an approved planned development for which the private owners assume full responsibility for maintenance and control and which has not been dedicated to the use of the public.
- (227) **STREET, PUBLIC:** As defined in the Zoning Ordinance. An accessway dedicated to the use of the public which has been accepted for maintenance and control by the city, county or state.
- (228) **STREET, STUB:** A street that has been designed to allow for the future extension of the street through subsequent subdivisions.
- (229) **STREET, SUBSTANDARD:** An existing street that does not meet the current minimum street standards of the City.

- (230) **STRUCTURE:** As defined in the Zoning Ordinance. That which is built or constructed, an edifice or building of any kind or other artificially built or constructed work.
- (231) **SUBDIVIDE:** When the owner of a tract of land within the limits or in the extraterritorial jurisdiction divides the tract into two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or the for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A division of a tract under this definition includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey or by using any other method.
- a. This does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.
  - b. This does include the assembly of two (2) or more tracts of land into one (1) tract or lot, unless specifically authorized by this ordinance.
  - c. It also includes the following changes to a recorded plat, unless specifically authorized by this ordinance:
    1. A resubdivision of all or part of the subdivision;
    2. Any change of lot size or lot lines; or
    3. The relocation of any street.
- (232) **SUBDIVIDER:** Any person or any agent of the person, who either directly or indirectly, divides or proposes to divide land, so as to constitute a subdivision, as that term is defined in this section. In any event, the term "subdivider" is restricted to include only the owner, equitable owner or authorized agent of the owner or equitable owner of land to be subdivided. The term "developer" or "applicant" shall also mean subdivider.
- (233) **SUBDIVISION:** Pertaining to land for which a plat has been recorded, *subdivision* means an area of subdivided lots; pertaining to the act of subdividing land, see the definition of *Subdivide* herein.
- (234) **SUBDIVISION, CLUSTER:** A grouping of individual building lots or sites in close proximity, each of which or the majority of which has less land area than required for isolated individual lots, with the additional area in the cluster subdivision being devoted to open space, recreation space, car spaces and access facilities in addition to required yards
- (235) **SUBDIVISION IMPROVEMENT DESIGN STANDARDS:** See *Design Standards for Construction, EL Paso (DSC)*
- (236) **SUBDIVISION IMPROVEMENT PLANS:** See *Plans, Subdivision improvement.*
- (237) **SUBDIVISION IMPROVEMENT PLAN ENGINEER:** The Engineer designated by the City Manager to furnish engineering assistance, approval of construction

drawings as to compliance with City Codes, inspection and acceptance of public improvements in the administration of this Chapter

- (238) **SUBMISSION:** The process by which a person desiring approval of a subdivision plat or subdivision improvement plans makes application to the City Manager, Deputy Director - Planning or their designee, which application meets all of the submission requirements.
- (239) **SURVEYOR:** A registered professional land surveyor, as licensed by the State of Texas.
- (240) **TAC:** The acronym for the Texas Administrative Code.
- (241) **TCEQ:** The acronym for the Texas Commission on Environmental Quality.
- (242) **THOROUGHFARE, MAJOR:** See *Street, Arterial*.
- (243) **THOROUGHFARE PLAN:** The Thoroughfare Plan Element of the Comprehensive Plan including the "2025 Thoroughfare System Map" as amended, and all other adopted thoroughfare plans of the City of El Paso.
- (244) **TRAFFIC, AVERAGE DAILY (ADT):** The average number of vehicles that pass a specified point during a twenty-four (24) hour period.
- (245) **TRAFFIC IMPACT ANALYSIS OR STUDY (TIA):** A report analyzing current and future traffic movements with and without a subdivision's impact and which includes an analysis of mitigation measures.
- (246) **TRIPS:** The total number of vehicles, bicycles and pedestrians that pass a specified point during a specified time period.
- (247) **TRIPS, AVERAGE DAILY:** The average number of trips that pass a specified point during a twenty-four (24) hour period.
- (248) **TRIPS, PEAK HOUR:** The total number of trips passing a specified point during the peak hour. The peak hour is the hour during the specified AM or PM period with the highest recorded traffic volumes on the impacted roadway network.
- (249) **TXDOT:** The acronym for the Texas Department of Transportation.
- (250) **UTILITY:** A business that provides an essential commodity or service, such as electric, gas transmission, and local telephone, and that is generally under government regulations.
- (251) **UTILITY MANAGER:** The Public Service Board of the El Paso Water Utilities or their designated representative that will furnish engineering assistance, approval of utility construction drawings, inspection and acceptance of water and wastewater improvements in the administration of this Chapter.
- (252) **UTILITY, PUBLIC:** See *Public Utility*.
- (253) **VARIANCE:** For the purposes of this ordinance, a variance is a procedure defined under the replatting standards contained in Chapter 212 of the Texas Local Government Code.

- (254) **VESTED RIGHT:** A right of an applicant in accordance with Chapter 245 of the Texas Local Government Code, as amended, requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Chapter and/or of any subsequent amendments.
- (255) **VESTED RIGHTS PETITION:** A request for relief from one or more standards of this Chapter based on an assertion that the petitioner has acquired a vested right requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Chapter. Such petition is regulated under this Chapter, Section 19.47.
- (256) **VIOLATION:** The failure of a development to fully comply with this article.
- (257) **WAIVER:** Authorization to deviate from or vary one or more standards applicable to a development application; such authorization is applied for, reviewed, and decided under this Chapter, Section 19.48. Also, see *Exception*.
- (258) **WASTEWATER:** Water which has been used for domestic, commercial or industrial purposes and has acquired contaminants which must be removed by wastewater treatment processes prior to release in the environment or reuse as treated wastewater or effluent.
- (259) **WASTEWATER DISPOSAL SYSTEM, ON SITE:** One or more systems of treatment devices and disposal facilities that are used only for disposal of wastewater produced on the site where the system is located.
- (260) **WASTEWATER FACILITIES:** The devices and systems which transport domestic wastewater from any property, treat the wastewater, or dispose of the treated wastewater in accordance with the minimum state standards.
- (261) **WASTEWATER FACILITY, ON-SITE:** An on-site sewage disposal system.
- (262) **WASTEWATER SYSTEM, PUBLIC:** A facility owned and operated by a legal entity created under the State of Texas, with authority and responsibility to construct, operate and maintain a wastewater disposal system.
- (263) **WATER DEPARTMENT:** El Paso Water Utilities
- (264) **WATER, DRINKING OR POTABLE:** All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in preparation of foods or beverages, or for the cleaning of any utensil or article used in the course of preparation or consumption of food for human beings.
- (265) **WATER SYSTEM, NONPUBLIC:** Any water system supplying potable water which is not a public water system.
- (266) **WATER SYSTEM, PUBLIC:** A facility owned and operated by a legal entity created under the laws of the State of Texas, with authority and responsibility to construct, operate and maintain a potable water system. The system must provide piped water for human consumption and for all uses described under the definition for drinking water to the public. Such system must have a potential for at least fifteen (15) service connections or serve at least twenty-five (25) individuals at least sixty (60) days out of the year. This term includes any collection, treatment, storage and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or

pretreatment storage facilities not under such control which are used primarily in connection with such system. Two (2) or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty-five (25) individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the potential service connections in the combined systems are fifteen (15) or greater of if the total number of individuals served by the combined systems total twenty-five (25) or more at least sixty (60) days out of the year.

- (267) **WATER STORAGE:** Impounded surface water areas or surface tanks used for storage.
- (268) **WAIVER OF RIGHTS:** Still being defined by attorney.
- (269) **YARD:** Including Front, Rear or side; as defined in the Zoning Ordinance. That part of a lot at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward to the sky, except for permitted projections from the ground such as landscaping, fencing or walls.
- (270) **ZERO LOT LINE:** As defined in the Zoning Ordinance. A property line on which a structure is constructed upon, resulting in no yard on that side.
- (271) **ZONING ORDINANCE:** Title 20, Chapter 20 of the El Paso Code of Ordinances. Definitions referred to in this ordinance are located in Chapter 20.02.