



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 ten (10) years plus two (2) five 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 ten (10) years plus two five (5) year extensions may be approved 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 (Replating) 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 everything except the water and wastewater plans must 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;
  - (5) Survey monuments;
  - (6) Street lights;
  - (7) Traffic control signs and traffic signalization;
  - (8) Landscaping;
  - (9) Curb ramps;
  - (10) Street pavement markings;
  - (11) Parkland and open space; and
  - (12) 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