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Article 3 – Authority of Decision-Makers

Section 19.30 – General Provisions

Section 19.30.1 Source of Authority

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

Section 19.30.2 Implied Authority

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

Section 19.30.3 Effect of City Approval

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

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

Section 19.30.4 Conflict in Authority

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

Section 19.31 – Responsible Officials

Section 19.31.1 Responsible Official Designated

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

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

Section 19.31.2 Deputy Director -Planning

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

Section 19.31.3 Subdivision Improvement Plan Engineer

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

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

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

Section 19.31.4 Deputy Director - Building Permits & Inspections

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

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

Section 19.31.5 Parks Director

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

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

Section 19.31.6 Development Services Director

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

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

Section 19.31.7 Storm Water Administrator

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

Section 19.31.8 Floodplain Administrator

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

Section 19.31.9 Other City Officials

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

Section 19.32 – City Plan Commission

Section 19.32.1 Reference to City Charter

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

Section 19.33 – City Council

Section 19.33.1 Authority for Amendments to this Chapter

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

Section 19.33.2 Authority for Deciding Appeals and Relief Petitions

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

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

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

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

Section 19.34 – Development Coordinating Committee (DCC)

Section 19.34.1 Structure of the Development Coordinating Committee

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