CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: **Department of the City Manager**

AGENDA DATE: **Item A, Introduction, July 10, 2007; Public Hearing, July 17, 2007**
Item B, July 17, 2007

CONTACT PERSON/PHONE: **Patricia D. Adauto, Deputy City Manager**
Development & Infrastructure Services
(915) 541-4853

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DISTRICT(S) AFFECTED: All

SUBJECT:

Item A:

An Ordinance amending Title 19 (Subdivisions) of the El Paso City Code, Chapters 19.08 (Platting Procedures), 19.28 (Construction and Guarantees) and 19.32 (Inspection and Acceptance of Improvements), by clarifying the requirements for subdivision improvement plan submission, approval and phasing; inspections of subdivision improvements; and replacing all references to the Deputy Director of Building Services. The penalty being as provided in Section 19.04.190 of the Code.

Item B:

Adopting a fee for Expedited Plan Review for submission and review of Subdivision Improvement Plans required by Title 19 (Subdivisions) of the El Paso City Code, and administered by the Development Services Department.

BACKGROUND / DISCUSSION:

As part of the review of the subdivision regulations underway, and recent meetings held with the development community on process streamlining, discussions ensued regarding handling and timing of subdivision improvement plan review. The proposed amendment has been developed as part of consensus reached to expedite the City's review of the process and imposes time restrictions and plan requirements on both the City staff and the development community. In summary, the proposed amendment (**Item A**) achieves the following:

- Replaces references from the Deputy Director for Building Services to the Development Services Director for administration of the regulations.
- Modifies the plan submission so that a phasing plan is required where phasing is contemplated during construction. In all cases, phasing is contingent on the required drainage structures and ponding areas serving the entire subdivision are built as part of the initial phase of a development.
- Allows an applicant to request phasing after the approval of the subdivision improvement plan submission, so long as it is done prior to the expiration of the time period for completion of the subdivision improvements or any authorized extension.
- Imposes time restrictions upon the City and the applicant to have the subdivision improvement plans submitted, reviewed and approved. Requests for time extensions are authorized.
- Makes a subdivider the responsible party for insuring that the subdivision improvement plan submission and construction of the improvements are done according to City Code and other regulatory requirements.
- Removes improvements designed by the El Paso Water Utilities (water and wastewater) from the subdivision improvement plan submission by a subdivider.
- Imposes time restrictions on inspection of subdivision improvements constructed prior to acceptance for maintenance of the infrastructure by the City.
- Defines applicability of the new regulations to subdivision applications submitted prior, on and after the effective date of the ordinance.

Additionally, a fee resolution is proposed (**Item B**) that incorporates two new fee structures for administrative costs related to the inspection and construction of any subdivision improvements. The new fees are as follows: an expedited plan checking and inspection fee at an additional $75.00 per hour or portion thereof; and a fee for re-inspections required due to deficiencies in construction in an amount of $150.00 per hour or portion thereof.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?
N/A

AMOUNT AND SOURCE OF FUNDING:
How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?
N/A

BOARD / COMMISSION ACTION:
The Development Coordinating Committee, the CPC Subdivision Ad-Hoc Committee, and the City Plan Commission have recommended in favor of the proposed ordinance amendment and the fee resolution.

**********REQUIRED AUTHORIZATION**********

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

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ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS) OF THE EL PASO CITY CODE, CHAPTERS 19.08 (PLATTING PROCEDURES), 19.28 (CONSTRUCTION AND GUARANTEES) AND 19.32 (INSPECTION AND ACCEPTANCE OF IMPROVEMENTS), BY CLARIFYING THE REQUIREMENTS FOR SUBDIVISION IMPROVEMENT PLAN SUBMISSION, APPROVAL, AND PHASING; INSPECTIONS OF SUBDIVISION IMPROVEMENTS; AND REPLACING ALL REFERENCES TO THE DEPUTY DIRECTOR FOR BUILDING SERVICES. THE PENALTY BEING AS PROVIDED IN SECTION 19.04.190 OF THE CODE.

WHEREAS, the subdivision regulations of the City have been established for the purpose of promoting the health, safety, morals and the general welfare of its citizens; and

WHEREAS, the subdivision regulations have been adopted in accordance with *The Plan for El Paso*; and

WHEREAS, the City staff is recommending amended language to change all references to the Deputy Director for Building Services, to add clarity to the requests for handling of the subdivision improvement plan submission and to create a process for inspection of subdivision improvements; and

WHEREAS, the amendment has been vetted with the industry users of the process and is necessary until the Subdivision Code can be fully rewritten; and

WHEREAS, the Development Coordinating Committee and the City Plan Commission have reviewed the text and are recommending the adoption of the subdivision regulations as herein enumerated; and

WHEREAS, the El Paso City Council finds that the adoption of the amended subdivision regulations will have no negative impact upon the public health, safety, morals and general welfare of the City, and that the subdivision regulations as amended will carry out the purpose and spirit of the policies expressed in *The Plan for El Paso*,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That Title 19 (Subdivisions) of the El Paso City Code, shall be and hereby is amended in its entirety by changing all references from the "Deputy director for building services" to the "Development Services Director or designee."

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2. That Title 19 (Subdivisions), Chapter 19.08 (Platting procedures), Section 19.08.080 (Subdivision improvement plan submission), of the El Paso City Code, shall be and hereby is amended by changing Subsection B to read as follows:

"B. Submission contents. When required by this title and upon final plat approval of a subdivision application by the city plan commission or the subdivision coordinator where administrative approval is authorized, a set of subdivision improvement plans shall be submitted to the Development Services Director or designee for review for code compliance. Review of the subdivision improvement plans for code compliance pursuant to this title shall authorize the recording plat submission pursuant to this title. The subdivision improvement plans shall be submitted for the entire area covered by the subdivision application, and shall comply with all provisions of this title. Submission shall include the following:

1. Nine copies of the complete set of subdivision improvement plans as required and in the form specified in the subdivision improvement design standards.

One additional copy shall be provided under each occurrence applicable below:

a. The subdivision application contains, adjoins or drains into any street, highway, right-of-way or drainage structure maintained by the Texas Department of Transportation,

b. The subdivision application contains, adjoins, crosses or plans to drain into, or contains plans to construct or reconstruct any drainage ditch, irrigation ditch or structure belonging to or maintained by an authority having proper jurisdictional authority,

c. The subdivision application contains, adjoins or drains onto any property belonging to any other state or federal agency;

2. A letter of intent assuring the installation, erection and construction of the improvements shown within the approved final plat. The letter of intent shall specify that in consideration of the city acceptance for dedication and acceptance for maintenance of the subdivision improvements, the subdivider agrees to complete the work within the time specified in Section 19.28.010. It shall also provide that the subdivider will construct the required subdivision improvements at his expense, except where the city council has authorized by specific resolution other provisions for financing part or all of the improvements. A warranty shall be included in the letter of intent which provides that the subdivider will correct at his expense any construction deficiencies which occur within one year following their acceptance by the city;

3. A performance guarantee as provided in Section 19.28.020 where required by the city plan commission as part of the final plat approval;

4. An illumination plan for any public or private street right-of-way within a subdivision, including within the area of the extraterritorial jurisdiction, or custom lighting approved outside of the street right-of-way. The illumination plan shall show the approximate location of the street lights as approved by the traffic division of the engineering department. The plan shall identify the type and number of required street lights, and shall be prepared in accordance with the requirements of Section 19.16.030 of this title. Approximate locations of neighborhood delivery and collection box units approved by the United States Postal Service shall also be shown on the illumination plan;

5. A phasing plan, where phasing is proposed, for the construction and installation of the required subdivision improvements; provided, that all of the subdivision improvements are completed within the time period specified in Section 19.28.010. The Development Services

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Director or designee shall approve the phasing proposed, 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 Development Services Director or designee disapproves a phasing plan, the subdivider may appeal the decision to the City Plan Commission upon a written request submitted to the Subdivision Coordinator. Whether or not the Development Services Director or designee approves phasing at the time of the subdivision improvement 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 accepted by the Development Services Director or designee after the approval of the subdivision improvement 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."

3. That Title 19 (Subdivisions), Chapter 19.08 (Platting procedures), Section 19.08.080 (Subdivision Improvement Plan submission), of the El Paso City Code, shall be and hereby is amended by changing Subsection 19.08.080.C to read as follows:

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"C. Distribution and review. Upon submission of the subdivision improvement plans by the subdivider as required in this section, and upon a review of the Development Services Director or designee that the submission is accepted for completeness, the Development Services Director or designee shall within one working day of the submission, distribute a set of the plans to the El Paso Water Utilities, the Division of Traffic Engineering of the Engineering Services Department, and any other affected department or agency for technical review. Written comments and recommendations shall be submitted to the Development Services Director or designee within ten days following the date of distribution. All objections or approvals to the plans shall be submitted in writing. The Development Services Director or designee shall complete his review of the subdivision improvement plans within a total of fifteen working days from the date that the submission is accepted for completeness. Failure of the Development Services Director or designee to provide written comments within the prescribed fifteen working days 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 by the Development Services Director or designee. 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 satisfy all the requirements of the City Code and any other regulatory requirement.

Once the official notice of the comments is provided to the subdivider, the subdivider shall make any necessary changes to the plans required by the Development Services Director or designee. Within fifteen working days of the completed review, the subdivider shall submit six copies of the revised plans to the Development Services Director or designee, each sheet of each set of plans imprinted or stamped with the seal of the engineer submitting the plans. Failure of the subdivider to submit the revised plans to the Development Services Director 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 Development Services Director or designee for additional time to submit the revised plans. The Development Services Director 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.

If the Development Services Director 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 and any other regulatory requirement. A copy of any subdivision improvement plans submitted within the extraterritorial jurisdiction, after approval by the Development Services Director or designee, shall be forwarded to the county road and bridge administrator. Additional copies may be requested by the Development Services Director or designee for informational purposes and review by other agencies.

The Development Services Director or designee shall forward a written certification to the subdivision coordinator 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."

4. That Title 19 (Subdivisions), Chapter 19.28 (Construction and Guarantees), Section 19.28.050 (Required improvements), of the El Paso City Code, shall be and hereby is amended to read as follows:

"19.28.050 Required improvements.

The subdivider shall provide all applicable improvements required by this title, including but not limited to the following:

A. Grading, as regulated by Chapter 18.44;
B. Drainage facilities;
C. Streets and other rights-of-way;
D. Survey monuments;
E. Street lights;
F. Traffic control signs and traffic signalization;
G. Landscaping;
H Curb ramps;
I. Street pavement markings; and
J. Parkland."

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5. That Title 19 (Subdivisions), Chapter 19.32 (Inspection and Acceptance of Improvements), Section 19.32.010 (Inspection and Acceptance), of the El Paso City Code, shall be and hereby is amended by changing Subsection 19.32.010.A to read as follows:

"A. Entry and inspection. The Development Services Director or designee shall have the right to enter upon the subdivision site for the purpose of conducting inspections. The Development Services Director 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 Development Services Director or finds, upon inspection, that any of the required subdivision improvements have not been constructed in accordance with the Subdivision Improvement Design Standards, then the subdivider shall be responsible for making the necessary changes to insure compliance.

Upon completion of each phase of the subdivision construction, the subdivider shall notify the Development Services Director or designee that the work is ready for a final inspection. The Development Services Director or designee shall, within ten (10) working days of a notification by the subdivider, arrange and conduct 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 Development Services Director 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 Development Services Director 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 Development Services Director 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 requirements have been met. Documentation that this inspection has been successfully performed shall be submitted to the Development Services Director or designee prior to the acceptance of any approved phase of the subdivision improvements and the contractor's release from liability.

The subdivider shall pay all necessary inspection fees as set by Resolution of the City Council, and no permits shall be issued until the required fees have been paid."

6. That Title 19 (Subdivisions), Chapter 19.32 (Inspection and Acceptance of Improvements), Section 19.32.010 (Inspection and Acceptance), of the El Paso City Code, shall be and hereby is amended by changing Subsection 19.32.010.B.1 to read as follows:

"B. Acceptance of improvements.

1. 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 is shown on the approved subdivision improvement plans approved by the Development Services Director or designee pursuant to Section 19.08.080 of this title, and that all phases of the subdivision improvements are completed within the time period specified in Section 19.28.010.

Concurrently with the request for acceptance of the subdivision improvements for maintenance, the subdivider shall submit the following to the Development Services Director or designee:

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a. 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 Title, 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;

b. An "as-built" survey of the City monuments containing the seal and signature of the surveyor responsible for their location. The survey shall note the elevation of each monument, the reference benchmark upon which the elevations are based, and the horizontal location of each monument with respect to the platted street centerlines."

7. This ordinance shall be effective upon passage by the El Paso City Council and shall apply to (1) all subdivision applications submitted on or after the effective date of this ordinance; (2) all current and valid subdivision applications for which no subdivision improvement plans have been submitted, reviewed or approved before the effective date of the ordinance; (3) all recorded subdivisions for which no construction, whether phased or not, has been started; and (4) except as may otherwise be provided by Chapter 245 of the Texas Local Government Code or separate agreement.

8. Except as herein amended; Title 19 (Subdivisions) of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this _____ day of July, 2007.

THE CITY OF EL PASO

_____
John Cook, Mayor

ATTEST:

_____
Richarda D. Momsen
Municipal Clerk

APPROVED AS TO FORM:

_____
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Patricia D. Adauto
Patricia D. Adauto, Deputy City Manager
Development & Infrastructure Services

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