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

DEPARTMENT: **City Development Department**

AGENDA DATE: **Introduction: 07/09/13**
Public Hearing: 07/16/13

CONTACT PERSON/PHONE: **Kimberly Forsyth, (915) 541-4668, forsythkl@elpasotexas.gov**

DISTRICT(S) AFFECTED: **City-wide**

SUBJECT:
An Ordinance Amending Title 19 (Subdivisions), Chapter 19.01 (Provisions Applicable To All Platting Procedures), to modify and add exemptions, and amend the time for decision on Plats and Land Studies; Chapter 19.02 (Land Studies), to amend the criteria for approval and criteria for revisions following approval of a Land Study; Chapter 19.03 (Preliminary Plat), to amend the effect of approval of a Preliminary Plat, and the time for expiration and extension of the Preliminary Plat; Chapter 19.04 (Final Plat), to amend the time for expiration and extension of a Final Plat, and the plat recordation procedure; Chapter 19.08 (Construction Plans and Management), to amend the requirements of Subdivision Improvement Plans, the timing of public improvements and permit issuance to allow grading permits without requiring a subdivision, and to amend the security for completion of improvements; Chapter 19.10 (Dedication, Construction Requirements and City Participation), to clarify Roadway Participation Policies and developer's proportionate share; Chapter 19.15 (Roadways), to amend the street/thoroughfare escrow policies and procedures; Chapter 19.21 (Sidewalks), to amend sidewalk requirements for new streets; Chapter 19.41 (Expiration, Extension and Reinstatement), to amend the time of expiration of a plat application; and Chapter 19.46 (Proportionality Appeal), to amend the appeal requirements. The penalty being as provided in Chapter 19.42 of the City of El Paso City Code. (All Districts).

BACKGROUND / DISCUSSION:
See attached.

PRIOR COUNCIL ACTION:
On October 30, 2012, City Council directed staff to work with stakeholders to obtain input on amending Title 19 (Subdivisions) to clarify certain requirements and to remove regulatory obstacles to timely development where possible. Several meetings were facilitated by Rep. Noe, beginning in January 2013.

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
This amendment was reviewed by the City Plan Commission (CPC) subdivision subcommittee and the Chamber of Commerce Development and Infrastructure committee. The CPC unanimously recommended approval on 5/30/13.

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Director - City Development Department

CL Gall for

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS), CHAPTER 19.01 (PROVISIONS APPLICABLE TO ALL PLATTING PROCEDURES), TO MODIFY AND ADD EXEMPTIONS, AND AMEND THE TIME FOR DECISION ON PLATS AND LAND STUDIES; CHAPTER 19.02 (LAND STUDIES), TO AMEND THE CRITERIA FOR APPROVAL AND CRITERIA FOR REVISIONS FOLLOWING APPROVAL OF A LAND STUDY; CHAPTER 19.03 (PRELIMINARY PLAT), TO AMEND THE EFFECT OF APPROVAL OF A PRELIMINARY PLAT, AND THE TIME FOR EXPIRATION AND EXTENSION OF THE PRELIMINARY PLAT; CHAPTER 19.04 (FINAL PLAT), TO AMEND THE TIME FOR EXPIRATION AND EXTENSION OF A FINAL PLAT, AND THE PLAT RECORDATION PROCEDURE; CHAPTER 19.08 (CONSTRUCTION PLANS AND MANAGEMENT), TO AMEND THE REQUIREMENTS OF SUBDIVISION IMPROVEMENT PLANS, THE TIMING OF PUBLIC IMPROVEMENTS AND PERMIT ISSUANCE TO ALLOW GRADING PERMITS WITHOUT REQUIRING A SUBDIVISION, AND TO AMEND THE SECURITY FOR COMPLETION OF IMPROVEMENTS; CHAPTER 19.10 (DEDICATION, CONSTRUCTION REQUIREMENTS AND CITY PARTICIPATION), TO CLARIFY ROADWAY PARTICIPATION POLICIES AND DEVELOPER'S PROPORTIONATE SHARE; CHAPTER 19.15 (ROADWAYS), TO AMEND THE STREET/THOROUGHFARE ESCROW POLICIES AND PROCEDURES; CHAPTER 19.21 (SIDEWALKS), TO AMEND SIDEWALK REQUIREMENTS FOR NEW STREETS; CHAPTER 19.41 (EXPIRATION, EXTENSION AND REINSTATEMENT), TO AMEND THE TIME OF EXPIRATION OF A PLAT APPLICATION; AND CHAPTER 19.46 (PROPORTIONALITY APPEAL), TO AMEND THE APPEAL REQUIREMENTS. THE PENALTY BEING AS PROVIDED IN CHAPTER 19.42 OF THE CITY OF EL PASO CITY CODE.

WHEREAS, Title 19 (Subdivisions) of the El Paso City Code (the "Code") was adopted to promote the health, safety, morals and general welfare of the community by guiding the future growth and development of the city in accordance with The Plan for El Paso and by encouraging the orderly and beneficial development of the city through appropriate growth management techniques and by establishing reasonable standards of design and procedures for subdivisions and resubdivision of land in order to further the orderly layout and use of land; and,

WHEREAS, Title 19 is being amended after a series of meeting with the City Staff and industry stakeholders in order to clarify development requirements and to streamline the development process; and,

WHEREAS, the City Plan Commission has recommended approval of the amendments, and the El Paso City Council finds that the amendments proposed herein will further protect and provide for the public health, safety, morals and general welfare of the community,

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

Section 1. That Title 19, Subdivisions, Chapter 19.01, Provisions Applicable to All Platting Procedures, Section 19.01.030, Exemptions, of the El Paso City Code is amended in its entirety to read as follows:

19.01.030 - Exemptions.

Exemptions. The following land divisions are exempt from the requirements of this article that apply to plats, provided that the applicant has an approved exemption determination application in accordance with Section 19.37.100:

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 portions and the combining of the portions of the lots with the adjacent lots on each side shall be allowed without replatting, provided each new lot complies with the zoning ordinance. The parcel line dividing the middle lot shall become the new lot line and the side setbacks required by zoning shall be measured from that line;
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 subsections 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 the ordinance codified in this title 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 the ordinance codified in this title shall be completed and recorded prior to the issuance of permits;
8. Creation of a remainder tract in accordance with Section 19.02.060, provided such remainder tract is suitable for development in the future and does not make any other tracts undevelopable under current City of El Paso ordinances, and provided however, that prior to construction of improvements, a plat meeting the requirements of the ordinance codified in this title 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.
12. The acquisition of land by the city for the purpose of providing stormwater drainage facilities or land required for water or wastewater infrastructure facilities.
13. The division of a legally subdivided and recorded lot in which a duplex is constructed, located in a district where duplexes are permitted may be resubdivided by metes and bounds into two separate lots, provided that the following requirements are met:

a. One dwelling unit of the duplex must remain on each separate lot at the time that the division is created;
b. The metes and bounds survey and survey map are prepared by a licensed surveyor of the State of Texas;
c. No panhandle lots or lots without access are created;
d. The metes and bounds survey and survey map shall be duly recorded and filed with the office of the El Paso County Clerk;
e. A copy of the recorded instrument shall be provided with all building permit applications; and
f. Any future building construction of dwelling units shall comply with all provisions of the zoning code.

14. Land to be used for electric company substations or minor utility facilities as defined in Title 20 of the City Code.
15. Construction of accessory buildings and additions of less than 50% of the total existing square footage of public schools that were built at least 30 years prior to the date that the current submitted application is deemed complete.

Section 2. That Title 19, Subdivisions, Chapter 19.01, Provisions Applicable to All Platting Procedures, Section 19.01.040, Time for decision on plats and land studies, Subparagraph A, Time period for action, of the El Paso City Code is amended in its entirety to read as follows:

19.01.040 - Time for decision on plats and land studies.

A. Time period for action. All final, minor, amending, and development plats and replat applications shall be acted upon within thirty days from the date a submitted application is deemed complete as provided for in Section 19.37.020, unless a written waiver is submitted in accordance with subsection B. below. Preliminary plats and land studies are not subject to the thirty-day approval limitation since they are preliminary and not suitable for recording. An applicant may request in writing an extension to the thirty-day approval period to allow additional time to comply with the requirements of this title and all other ordinances.

Section 3. That Title 19, Subdivisions, Chapter 19.02, Land Studies, Section 19.02.040, Criteria for approval, Subparagraph A, Factors, of the El Paso City Code is amended in its entirety to read as follows:

19.02.040 - 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 arterial and collector 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 title, 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;
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; and
7. The land study is consistent with the adopted comprehensive plan, except where application of the plan conflicts with state law.

Section 4. That Title 19, Subdivisions, Chapter 19.02, Land Studies, Section 19.02.070, Revisions following approval of a land study, Subparagraphs A, Minor Changes, and Subparagraph B, Amendments, of the El Paso City Code are amended in their entirety to read as follows:

19.02.070 - 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 alter any of the following by more than 10%: the arrangement of land use, acreage designated to land uses, density , open space areas, to include changes to any arroyos, relocate major circulation elements 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 chapter.
      a. An amendment that alters the arrangement of land use, acreage designated to land uses, density, or open space areas, to include changes to any arroyos, by 25% or more is considered a new application.
      b. An amendment that alters the arrangement of land use, acreage designated to land uses, density, or open space areas, to include changes to any arroyos, by more than 10% but less than 25% is considered an amended application and has a reduced fee as determined by City Council .
   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 timeframe 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. Amendments deemed minor by the City manager or designee, as defined in subsection A. of this section, may be authorized administratively.
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 Title 1, Section 1.04.070 of the City Code.

Section 5. That Title 19, Subdivisions, Chapter 19.03, Preliminary Plats, Section 19.03.050, Effect of approval of a preliminary plat, Subparagraph B, Installation of Subdivision Improvements, of the El Paso City Code is amended in its entirety to read as follows:

19.03.50 - Effect of approval of a 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;
      b. Following final plat and subdivision improvement plan approval but prior to recordation. If improvements are delayed beyond three years of the date of final plat approval, the developer must file security required in Section 19.08.040; or
      c. Following final plat approval and recordation and the release of building permits for up to 50% of the residential lots, provided that: 1) the lots have water and sanitary sewer service and a letter of Final Acceptance issued by the El Paso Water Utilities; and, 2) the lots are contiguous and form a complete block face or block faces within the subdivision. Prior to the issuance of permits for more than 50% of the residential lots 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 19.08.040 of this title.

Section 6. That Title 19, Subdivisions, Chapter 19.03, Preliminary Plats, Section 19.03.060, Expiration and extension of the El Paso City Code is amended in its entirety to read as follows:

19.03.060 - Expiration and extension.

The approval of a preliminary plat application shall remain in effect for a period of three 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 three-year period, the preliminary plat application, unless extended in accordance with Chapter 19.41, shall expire and the preliminary plat shall be null and void.

Section 7. That Title 19, Subdivisions, Chapter 19.04, Final Plat, Section 19.04.060, Expiration and extension, of the El Paso City Code is amended in its entirety to read as follows:

19.04.060 - Expiration and extension.

The approval of a final plat shall remain in effect for a period of three 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 three-year period, the final plat approval, unless extended in accordance with Chapter 19.41, shall expire and the applicable plat shall be deemed null and void.

Section 8. That Title 19, Subdivisions, Chapter 19.04, Final Plat, Section 19.04.070, Plat recordation, Subparagraph A, Procedure, of the El Paso City Code is amended in its entirety to read as follows:

19.04.070 - 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;
        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 for up to 50% of the residential lots may be issued in accordance with Section 19.08.040 and 19.08.020, provided that: 1) the lots have water and sanitary sewer service and a letter of Final

Acceptance issued by the El Paso Water Utilities; and, 2) the lots are contiguous and form a complete block face or block faces within the subdivision; or

c. Regardless of which option above, is chosen, subdivision improvement plans must be approved or conditionally approved in accordance with this chapter and Section 19.08.010 prior to plat recordation.

Section 9. That Title 19, Subdivisions, Chapter 19.08, Construction Plans and Management, Section 19.08.010, Subdivision improvement plans, Subparagraph B, Application Contents, of the El Paso City Code is amended in its entirety to read as follows:

19.08.10 - Subdivision improvement plans.

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 planning official 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 title and the DSC. The final subdivision improvement plans including paving and stormwater engineering shall be submitted in one package and be approved or approved with conditions prior to the final plat recordation in accordance with this title. The subdivider shall provide and the subdivision improvement plans shall contain all applicable improvements required by this title and the DSC, including but not limited to the following details:

1. Grading and slope stabilization as regulated by Chapter 18.44
2. Drainage facilities;
3. Water and wastewater plans, except water and wastewater plans in developments to be served by EPWU, which shall comply with subsection C. below;
4. Streets and other rights-of-way (including sidewalks); on subdivisions within the City limits, sidewalks may be deferred until building permits are requested for a residential lot, except sidewalks at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued.
5. Bikeway and transit improvements (where applicable);
6. Survey monuments;
7. Street lights;
8. Traffic control signs and traffic signalization; traffic calming devices (where applicable);
9. Landscaping; on subdivisions within the City limits, landscape (street trees) may be deferred until building permits are requested for a residential lot, except landscape at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued.

10. Curb ramps; on subdivisions within the City limits, curb ramps may be deferred until building permits are requested for a residential lot, except curb ramps at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued.
11. Street pavement markings;
12. Parkland and open space; and
13. Provisions for Arroyo protection.

It is the developer and his engineer's responsibility to put the plans together 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.

Section 10. That Title 19, Subdivisions, Chapter 19.08, Construction Plans and Management, Section 19.08.020, Timing of public improvements, permit issuance, Subparagraph B, Installation After Final Plat Recordation, and Subparagraph D, Permit Issuance, of the El Paso City Code are amended in their entirety to read as follows:

19.08.20 - Timing of public improvements, permit issuance.

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 three years after final plat approval. Deferral of the obligation to install public improvements for more than three years after final plat approval shall be conditioned on sufficient security as required in Section 19.08.040

D. Permit Issuance.
   a. Grading permits. Any grading within the corporate limits or within the extraterritorial jurisdiction shall conform to the applicable portions of Chapter 18.44 (Grading) of this Code. Properties not required to file a subdivision application pursuant to this title shall only be subject to the requirements of Chapter 18.44.
      a. 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 title, no building permit shall be issued for any lot until the subdivision has been recorded and the requirements of Title 18 (Building and Construction) of this code 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:
         i. More than 50% of the permits have been requested, sufficient security as required by Section 19.08.040 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.

ii. 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.

iii. Sidewalks, landscape, and curb ramps on subdivisions within City limits may be deferred until building permits are requested for residential lots; except sidewalks, landscape and curb ramps at the rear of double frontage lots must be installed, inspected, approved and accepted by the City prior to building permits being issued.

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 19.08.050 of this title, except as follows:

i. 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 19.08.040, must be provided in a form acceptable to the city manager, or designee, and accepted by the city.

ii. 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 marshal have been provided to such site.

Section 11. That Title 19, Subdivisions, Chapter 19.08.040, Construction Plans and Management, Section 19.08.040, Security for completion of improvements, Subparagraph A, Security, of the El Paso City Code is amended in its entirety to read as follows:

19.08.040 - 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 three-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 title, 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 public improvements remaining to be installed as required by this title. 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 public

improvements remaining to be installed as required by this title. 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 public improvements remaining to be installed as required by this title. The guaranteed payment sum shall be the estimated costs approved by the city manager or designee.

Section 12. That Title 19, Subdivisions, Chapter 19.10, Dedication, Construction Requirements, and City Participation, Section 19.10.050, Roadway participation policies—improvement of adjacent (perimeter) roads and utilities, Subparagraph A, Improvement of the proportional share of an adjacent substandard road, and Subparagraph B, Calculation of Minimum Proportional Share, of the El Paso City Code are amended in their entirety to read as follows:

19.10.050 - Roadway participation policies—Improvement of roads and utilities within and or abutting the subdivision.

A. Improvement of the proportional share of a substandard road within or abutting the subdivision. When an area within a proposed plat, whether residential or nonresidential, abuts on one or both sides of an existing substandard road or utility facility, or a planned or future road, drainage or utility facility as shown on the city's thoroughfare plan and/or adopted plans related to water and wastewater, the developer shall be required to improve the development's proportional share of the road (including appurtenant sidewalks, bike lanes, barrier-free ramps, storm drainage facilities, screening and landscaping, medians and landscaping where required, median openings, left turn lanes, and water quality or erosion controls), the traffic mitigation (including signalization, medians, access and deceleration lanes) and utility facilities, to bring the facilities to city standards, or to replace them with standard city road, traffic mitigation or utility facilities as determined by a traffic or other public facilities impact study. The study, if required, shall be at no cost to the city unless it is used to determine rough proportionality in accordance with this title, in which case the study will be provided by the city.

B. Calculation of Minimum Proportional Share.
    1. The developer's share of improvements to a substandard road abutting a subdivision is a minimum of twenty and a half feet of pavement in addition to the curbs, gutters, sidewalks and parkways abutting the subdivision, along the entire boundary of the subdivision, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements.
    2. The minimum developer's share of improvements to a roadway when a subdivision is to be located on both sides of a roadway is the full width of a local roadway, which is fifty-two feet of right-of-way and thirty-two feet of pavement, in addition to the curbs, gutters, sidewalks and parkways, unless the traffic impact

study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements. The roadway shall be improved by the developer on each side of the road along the entire length of the subdivision.

3. The city shall participate in the costs of arterial roads within or abutting the subdivision in excess of the developer's proportional share obligations and where such costs are not borne by another public entity, and in cases where the application of the standards in this chapter result in a disproportional burden on the development, as determined in accordance by the city council in accordance with Chapter 19.46. If the city council determines that funds are not adequate, the city council may choose to do one of the following;
    a. Defer the construction of the improvement, allowing the developer to provide for their share of the improvement at a later date in accordance with this title;
    b. Allow the developer to install just their portion of the improvement, provided it is adequate for minimum traffic circulation and fire protection; or
    c. Sign an agreement with the developer, if the developer proposes to construct the entire roadway improvements and be reimbursed the city's proportional share over time with interest at the rate set in the Texas Government Code Section 2251.

Section 13. That Title 19, Subdivisions, Chapter 19.15, Roadways, Section 19.15.030, Street/thoroughfare escrow policies and procedures, Subparagraph B, Escrow Deposit with the City, of the El Paso City Code is amended in its entirety to read as follows:

19.15.030 - Street/thoroughfare escrow policies and procedures.

B. Escrow Deposit with the City. Whenever the city manager or designee agrees to accept escrow deposits in lieu of construction by the property owner/developer, the property owner/developer shall deposit in escrow with the city an amount equal to the property owner's/developer's share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and the interest on such funds will be used to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future. This amount shall be reviewed and approved by the CPC upon recommendation by the city manager or designee, and shall be paid prior to recording of the final plat. The obligations and responsibilities of the property owner/developer shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.
    1. Determination of Escrow Amount. The amount of the escrow shall be determined by using comparable "turnkey" costs for construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). The determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the city manager or designee.

2. Termination of Escrow. Escrows, or portions of escrowed amounts, which have been placed with the city under this chapter and which have been held for a period of five years from the date of such payment or agreement, in the event that the city has not committed or encumbered the funds, approved a contract or authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the original property owner/developer along with its accrued interest at the rate set in the Texas Government Code Section 2251. Such return does not remove any obligations of the property owner/developer for construction of the required facilities if a building permit has not been issued on the subject lot(s) or if application for a new building permit(s) is made.
3. Refund. If any street or highway for which escrow is deposited is constructed by a party other than the city, or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest shall be refunded to the property owner/developer that deposited funds into escrow after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the city and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
4. Interest Limitation. If money is refunded within six months of deposit, only the principal will be refunded. After that date, monies returned after this date will be refunded with its accrued interest less the first six month's interest.

Section 14. That Title 19, Subdivisions, Chapter 19.21, Sidewalks, Section 19.21.030, Sidewalk requirements for new streets, Subparagraph B, Timing of Improvements, of the El Paso City Code is amended in its entirety to read as follows:

19.21.030 - Sidewalk requirements for new streets.

B. Timing of Improvements.
   1. Sidewalks, landscape and curb ramps shall be provided by the developer at the time of road construction on all new freeway frontage roads unless disallowed by TXDOT, arterial streets, or collector streets, except on individual lots fronting on or siding up to such street. The developer may choose to provide security in accordance with this chapter and to delegate the requirement to construct such sidewalks, landscape and curb ramps to the purchaser of a lot or the purchaser's builder as a part of the building permit for a period of three years from the date of acceptance of the adjacent street. However, at the end of the three-year time period, the developer shall make arrangements to complete the missing sidewalks, landscape and curb ramps or in lieu of such arrangements, the city may utilize the security to complete the sidewalks, landscape and curb ramps. As sidewalks, landscape and curb ramps are completed during the three year period, the developer may request the partial release of security for the completed portions in accordance with this title.

Section 15. That Title 19, Subdivisions, Chapter 19.41, Expiration, Extension, and Reinstatement, Section 19.41.010, Time of expiration, Subparagraph A, of the El Paso City Code is amended in its entirety to read as follows:

19.41.010 - Time of expiration.

A. Unless otherwise expressly provided by this title, an approved plat application shall automatically expire on the third anniversary of the approval date of the application, and shall become null and void, and all activities under the permit thereafter shall be deemed in violation of this code, if:
    1. The applicant fails to satisfy any condition that was imposed by this code or as part of the approval of the application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term;
    2. The applicant fails to submit a subsequent complete application required by this title within the time so required; or
    3. If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be three years from the date the application was approved, except as provided in Section 19.41.060

Section 16. That Title 19, Subdivisions, Chapter 19.46, Proportionality Appeal, Section 19.46.030, Appeal requirements, Subparagraph C, Study Required, and Subparagraph D, Time for Filing Appeal and Study, of the El Paso City Code are amended in their entirety to read as follows:

19.46.030 - Appeal requirements.

C. Study Required. The petitioner shall provide a copy of any studies submitted with the development application or plat that support the petition for relief including the following information:
    1. Impact of the proposed development on the capacity of the city's water, wastewater, stormwater, parks, or roadway system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
    2. Comparison of the capacity of the city's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the city's public facilities system(s) from the entire development shall be considered.
    3. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the city.

D. Time for Filing Appeal and Study. An appeal shall be filed with the responsible official within thirty business days from the date the requirement to dedicate land or to construct public improvements for dedication to the public is imposed on the applicant. The study in support of the petition shall be filed within sixty business days of the initial decision, unless the petitioner seeks an extension in writing. The responsible official may extend the time for submitting the study for a period not to exceed an additional thirty business days for good cause shown.

Section 17. Except as herein amended, Title 19, Subdivisions, of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this _____of _____2013.

THE CITY OF EL PASO

_____
Oscar Leeser, Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lauren Ferris
Lauren K. Ferris
Assistant City Attorney

APPROVED AS TO CONTENT:

for
Mathew McElroy, Director
City Development Department

13-1007-749/ Doc# 190348_2/Title 19 Amendment/lkf

Dedicated to Outstanding Customer Service for a Better Community

SERVICE SOLUTIONS SUCCESS

City Development Department

DATE: July 2, 2013

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Kimberly Forsyth, Lead Planner

SUBJECT: Title 19 amendment

The City Council, on October 30, 2012, requested that staff work with various stakeholders to make amendments to Title 19, to clarify code requirements and improve efficiency in processing of subdivisions.

Representative Noe facilitated several meetings over a period of months to obtain input from the private sector. The City Plan Commission subcommittee reviewed the proposed revisions at meetings on April 4, 2013 and May 2, 2013. The Development and Infrastructure committee of the Chamber of Commerce reviewed the proposed amendments on May 8, 2013. The full City Plan Commission recommended unanimous approval of the proposed ordinance on May 30, 2013.

The ordinance was originally scheduled for City Council action on June 18, 2013. However, Planning received a request from the El Paso Water Utilities (EPWU) to add qualifying language to Sections 19.03.050.B.3.c (Effect of Approval of a Preliminary plat) and 19.070.070.A.2.b (Plat Recordation), to allow building permits to be issued prior to completion of subdivision improvements only under certain circumstances. The qualifying language is highlighted:

c. Following final plat approval and recordation and the release of building permits for up to 50% of the residential lots, provided: 1) the lots have water and sanitary sewer service and a letter of Final Acceptance issued by the EPWU and 2) they are contiguous and form a complete block face or block faces within the subdivision.

This change was distributed to affected stakeholders and a request was made by the Chamber of Commerce to change "Letter of Final Acceptance" to "Letter of Conditional Acceptance." The staff recommendation is to keep the language as originally proposed by EPWU.

Mayor
Oscar Leeser

City Council

District 1
Ann Morgan Lilly

District 2
Larry Romero

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Eddie Holguin Jr.

District 7
Lily Limón

District 8
Cortney C. Niland

City Manager
Joyce A. Wilson

City of El Paso – City Plan Commission Staff Report

Amendments to Title 19

City Development was directed by City Council to meet with private sector representatives for the purpose of amending Title 19 (Subdivisions) to clarify requirements and to address obstacles to development. Several meetings were held with industry representatives to obtain their input. The draft was reviewed by the CPC Subdivision Subcommittee at meetings on April 4, 2013 and May 2, 2013, and most of the proposed revisions were recommended for approval. Items that were changed by the subcommittee are in italics. The draft was also reviewed by the Chamber of Commerce Development and Infrastructure Committee on May 8, 2013. In summary, the amendment will implement the following changes:

- Permitting/expanding certain exemptions to requirements for platting.
    - Division of a middle lot, split between adjacent lots
    - Division of an existing duplex on a legally recorded lot
    - Electric company substations and minor utility facilities
    - Accessory buildings and additions of less than 50% square footage of existing public schools built at least 30 years ago.
- Amending requirements for land studies, and adding provisions that will allow amendments of less than 25% (land area for designated use, density, open space) to be processed for less cost.
- Changing the time limit for expiration of approved plats and construction of subdivision improvements from <u>two</u> years to <u>three</u> years.
- Allow building permits to be issued for up to 50% of residential lots, ***provided the lots are contiguous and within complete block faces***, prior to subdivision improvements and without security required.
- Allow grading permits (subject to Title 18) without requiring a subdivision.
- Allow deferral of certain improvements until building permitting (within City limits):
    - Sidewalks at the front and side of residential lots.
    - Landscaping at the front and side of residential lots.
    - Curb ramps at the front and side of residential lots.
- Clarify roadway participation policies and developer minimum proportional share.
- Clarify refund policies if escrow deposited by a developer for required improvements is not committed by the City within specified time, and reduce the time for escrow to be held from 10 years to 5 years.
- Specify an interest rate for escrow deposits held.
- Clarify appeal requirements (require a copy of impact studies already submitted, not new studies).
- Extend time for applicant to file an appeal from 10 to 30 days.

19.01.030 - Exemptions.

Exemptions. The following land divisions are exempt from the requirements of this article that apply to plats, provided that the applicant has an approved exemption determination application in accordance with Section 19.37.100:

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 portions~~exact halves~~ and the combining of the portions~~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 new lot ~~and half lot is permanently joined by a structure built over the property line in accordance~~ complies with the zoning ordinance. The parcel line dividing~~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 subsections 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 the ordinance codified in this title 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 the ordinance codified in this title shall be completed and recorded prior to the issuance of permits;

8. Creation of a remainder tract in accordance with Section 19.02.060, provided such remainder tract is suitable for development in the future and does not make any other tracts undevelopable under current City of El Paso ordinances, and provided however, that prior to construction of improvements, a plat meeting the requirements of the ordinance codified in this title 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.

12. The acquisition of land by the city for the purpose of providing stormwater drainage facilities or land required for water or wastewater infrastructure facilities.

13. The division of a legally subdivided and recorded lot in which a duplex is constructed, located in a district where duplexes are permitted may be resubdivided by metes and bounds into two separate lots, provided that the following requirements are met:

a. One dwelling unit ~~half~~ of the duplex must remain on each separate lot at the time that the division is created;

b. The metes and bounds survey and survey map are prepared by a licensed surveyor of the State of Texas;

c. No panhandle lots or lots without access are created;

d. The metes and bounds survey and survey map shall be duly recorded and filed with the office of the county clerk;

e. A copy of the recorded instrument shall be provided with all building permit applications; and

f. Any future building construction of dwelling units shall comply with all provisions of the zoning code.

14. Land to be used for electric company substations or minor utility facilities.

15. Construction of accessory buildings and additions of less than 50% of the total existing square footage of public schools that were built at least 30 years prior to submittal of the current application.

19.01.040 - Time for decision on plats and land studies.

A. Time period for action. All final, minor, amending, and development plats and replat applications shall be acted upon within thirty days from the date a submitted application is deemed complete as provided for in Section 19.37.020, unless a written waiver is submitted in accordance with subsection B. below. Preliminary plats and land studies are not subject to the thirty-day approval limitation since they are preliminary and not suitable for recording~~, and will be approved, approved subject to conditions or denied within thirty days from the date the application is deemed complete as provided for in Section 19.37.020~~. An applicant may request in writing an extension to the thirty-day approval period to allow additional time to comply with the requirements of this title and all other ordinances.

19.02.040 - 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 arterial and collector 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 title, 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;

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; and

7. The land study is consistent with the adopted comprehensive plan, except where application of the plan conflicts with state law.

19.02.070 - 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 any of the following by more than 10%: the arrangement of land use, acreage designated to land uses ~~increase~~ density, ~~relocate major circulation elements~~, ~~decrease~~ open space areas, to include changes to any arroyos, relocate major circulation elements 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 chapter.

a. An amendment that alters the arrangement of land use, acreage designated to land uses, density, or open space areas, to include changes to any arroyos, by 25% or more is considered a new application.

b. An amendment that alters the arrangement of land use, acreage designated to land uses, density, or open space areas, to include changes to any arroyos, by more than 10% but less than 25% is considered an amended application and has a reduced fee.

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 timeframe 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. Amendments deemed minor by the City manager or designee, as defined in subsection A. of this section, may be authorized administratively.

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 title.

19.03.050 - 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;

b. Following final plat and subdivision improvement plan approval but prior to recordation. If improvements are delayed beyond three~~two~~ years of the date of final plat approval, the developer must file security required in Section 19.08.040~~ or issuance of building permits~~; or

c. Following final plat approval and recordation and the release of building permits for up to 50% of the residential lots, provided they are contiguous and form a complete block face or block faces within the subdivision. Prior to the issuance of more than fifty percent 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 19.08.040 of this title.

19.03.060 - Expiration and extension.

The approval of a preliminary plat application shall remain in effect for a period of three~~two~~ 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 three~~two~~-year period, the preliminary plat application, unless extended in accordance with Chapter 19.41, shall expire and the preliminary plat shall be null and void.

19.04.060 - Expiration and extension.

The approval of a final plat shall remain in effect for a period of three~~two~~ 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 three~~two~~-year period, the final plat approval, unless extended in accordance with Chapter 19.41, shall expire and the applicable plat shall be deemed null and void.

19.04.070 - 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;

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 for up to 50% of the residential lots, provided they are contiguous and form a complete block face or block faces within the subdivision,may be issued in accordance with Section 19.08.040 and Section 19.08.020; or

c. Regardless of which option, (1) or (2) above, is chosen, subdivision improvement plans must be approved or conditionally approved in accordance with this chapter and Section 19.08.010 prior to plat recordation.

19.08.010 - 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 title.

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 planning official 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 title and the DSC. The final subdivision improvement plans including paving and stormwater engineering shall be submitted in one package and be approved or approved with conditions prior to the final plat recordation in accordance with this title. The subdivider shall provide and the subdivision improvement plans shall contain all applicable improvements required by this title and the DSC, including but not limited to the following details:

1. Grading and slope stabilization as regulated by Chapter 18.44

2. Drainage facilities;

3. Water and wastewater plans, except water and wastewater plans in developments to be served by EPWU, which shall comply with subsection C. below;

4. Streets and other rights-of-way (including sidewalks); on subdivisions within the City limits, sidewalks may be deferred until building permits are requested for a residential lot, except sidewalks at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued.

5. Bikeway and transit improvements (where applicable);

6. Survey monuments;

7. Street lights;

8. Traffic control signs and traffic signalization; traffic calming devices (where applicable);

9. Landscaping; on subdivisions within the City limits, landscape (street trees) may be deferred until building permits are requested for a residential lot, except landscape at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued.

10. Curb ramps; on subdivisions within the City limits, curb ramps may be deferred until building permits are requested for a residential lot, except curb ramps at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued.

11. Street pavement markings;

12. Parkland and open space; and

13. Provisions for Arroyo protection.

It is the developer and his engineer's responsibility to put the plans together 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.

19.08.020 - 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 three~~two~~ years after final plat approval. Deferral of the obligation to install public improvements for more than three~~two~~ years after final plat approval shall be conditioned on sufficient security as required in Section 19.08.040

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) of this Code. Properties not required to file a subdivision application pursuant to this title 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 title, as follows:~~

~~a. Grading permit. No 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.~~

~~b~~a. 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 title, no building permit shall be issued for any lot until the subdivision has been recorded and the requirements of Title 18 (Building and Construction) of this code 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:

i. If more than 50% of the permits have been requested, sufficient security as required by Section 19.08.040 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.

ii. 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.

iii. Sidewalks, landscape, and curb ramps on subdivisions within City limits may be deferred until building permits are requested for a residential lots; except sidewalks, landscape and curb ramps at the rear of double frontage lots must be installed, inspected, approved and accepted by the City prior to building permits being issued.

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 19.08.050 of this title, except as follows:

i. Foundation or building permits for lots within a subdivision may be issued by the building official. If more than 50 percent of the foundation or building permits are requested, sufficient security required in Section 19.08.040, must be provided in a form acceptable to the city manager, or designee, and accepted by the city.

ii. 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 marshal have been provided to such site.

19.08.040 - 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 fifty percent of the building permits is requested; or (3) the three~~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 title, 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 public improvements remaining to be installed as required by this title. 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 public improvements remaining to be installed as required by this title. 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 public improvements remaining to be installed as required by this title. The guaranteed payment sum shall be the estimated costs approved by the city manager or designee.

19.10.050 - Roadway participation policies—Improvement of ~~adjacent (perimeter)~~ roads and utilities within and or abutting the subdivision.

A. Improvement of the proportional share of a~~n adjacent~~ substandard road within or abutting the subdivision. When an area within a proposed plat, whether residential or nonresidential, abuts on one or both sides of an existing substandard road or utility facility, or a planned or future road, drainage or utility facility as shown on the city's thoroughfare plan and/or adopted plans related to water and wastewater, the developer shall be required to improve the development's proportional share of the

road (including appurtenant sidewalks, bikelanes, barrier-free ramps, storm drainage facilities, screening and landscaping, medians and landscaping where required, median openings, left turn lanes, and water quality or erosion controls), the traffic mitigation (including signalization, medians, access and deceleration lanes) and utility facilities, to bring the facilities to city standards, or to replace them with standard city road, traffic mitigation or utility facilities as determined by a traffic or other public facilities impact study. The study, if required, shall be at no cost to the city unless it is used to determine rough proportionality in accordance with this title, in which case the study will be provided by the city.

B. Calculation of Minimum Proportional Share.

1. The developer's share of improvements to a substandard ~~perimeter~~ road abutting a subdivision is a minimum of twenty and a half feet of pavement plus curb, gutter, sidewalk and parkway abutting the subdivision ~~(not including curb)~~, ~~or the equivalent of one-half of a collector street~~, along the entire boundary~~front footage~~ of the subdivision, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements.

2. The minimum developer's share of improvements to a roadway when a subdivision is to be located on both sides of a roadway is the full width of a local roadway, which is fifty-two feet ROW and thirty-two~~six~~ feet of pavement, and~~plus~~ the curbs, gutters, sidewalks and parkways, unless the traffic impact study determines that the proportional share of the development is more, in which case that shall become the minimum share of improvements. The roadway shall be improved by the developer on each side of the road along the entire length of the subdivision.

3. The city shall participate in the costs of arterial~~perimeter~~ roads within or abutting the subdivision in excess of the developer's proportional share obligations and where such costs are not borne by another public entity, and in cases where the application of the standards in this chapter result in a disproportional burden on the development, as determined in accordance by the city council in accordance with Chapter 19.46. If the city council determines that funds are not adequate, the city council may choose to do one of the following;

a. Defer the construction of the improvement, allowing the developer to provide for their share of the improvement at a later date in accordance with this title;

b. Allow the developer to install just their portion of the improvement, provided it is adequate for minimum traffic circulation and fire protection; or

c. Sign an agreement with the developer, if the developer proposes to construct the entire perimeter facility and be reimbursed the city's proportional share over time with interest (rate?).

this section still in review ~~**19.11.030 - Lot requirements—Extraterritorial jurisdiction.**~~

~~Building Lines. Front building lines shall be shown for all lots on all plats submitted for land within the city's ETJ, and shall be as follows:~~

~~1. The minimum building setback from lot boundaries adjacent to street rights-of-way shall be as follows in subsection "a" below, except as specified in subsection "b."~~

~~a. Setback from boundary adjacent to freeway (without frontage road in place): forty feet.~~

~~Setback from boundary adjacent to freeway (with frontage road in place): thirty feet.~~

~~Setback from boundary adjacent to arterial or collector street: thirty feet.~~

~~Setback from boundary adjacent to a local street: twenty-five feet.~~

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

19.15.030 - Street/thoroughfare escrow policies and procedures.

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

1. Determination of Escrow Amount. The amount of the escrow shall be determined by using comparable "turnkey" costs for construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). The determination of the escrow amount shall be made as of the time the escrow is due hereunder, and shall be subject to the review and approval of the city manager or designee.

2. Termination of Escrow. Escrows, or portions of escrowed amounts, which have been placed with the city under this chapter and which have been held for a period of five~~ten~~ years from the date of such payment or agreement, in the event that the city has not committed or encumbered the funds, approved a contract or authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the original~~abutting~~ property owner/developer~~s~~ along with its accrued interest(rate?). Such return does not

remove any obligations of the property owner/developer for construction of the required facilities if a building permit has not been issued on the subject lot(s) or if application for a new building permit(s) is made.

3. Refund. If any street or highway for which escrow is deposited is constructed by a party other than the city, or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest shall be refunded to the original property owner/developer after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the city and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

4. Interest Limitation. If money is refunded within six months of deposit, only the principal will be refunded. After that date, monies returned after this date will be refunded with its accrued interest less the first six month's interest.

(this section still in review)~~19.15.050 - General requirements.~~

~~B. Roadway Network Connectivity.~~

~~1. All proposed developments must have a connectivity index of 1.4 or greater. The connectivity index shall be calculated by dividing the total number of links (streets including stub-out streets) by the total number of nodes (intersections, culs-de-sac, no-outlets, dead-ends).~~

~~2. The city plan commission may grant exceptions to these requirements only upon a finding that the development is constrained by topographic features, existing development or other impassible features. The grant of the exception requires the affirmative vote of at least three fourths of all members of the city plan commission.~~

~~19.15.080 - Street length.~~

~~A. Length of a block or street segment. The maximum length of any block or street segment (including a looped street) shall be one thousand six hundred feet along arterial streets, except that where lots are designed under Section 19.15.060 F.4. blocks may not exceed eight hundred feet. Block faces shall not exceed one thousand feet along other streets and the full perimeter of a block shall not exceed two thousand four hundred feet except when Table 19.15-3 specifies otherwise or where topographic features or parcels of one-half acre or larger would justify an exception from this requirement. Cul-de-sac streets shall adhere to Table 19.15-1 or other requirements herein. Measurements shall be as measured along the centerline of the street from the centerline or center point of one intersection to the centerline or center point of the next intersection. For the purposes of measurement, either a full four-way intersection or a "T" three-way intersection shall be considered an intersection. Traffic calming may be provided by the developer or may be required in accordance with the adopted Neighborhood Management Policy and in accordance with the DSC by the city manager or designee.~~

~~The length of a block or street segment may exceed the maximum length stated in paragraph A. above under the following conditions:~~

~~1. Blocks containing retention or detention ponds;~~

~~2. Blocks containing parks, and~~

~~3. Development where the proposed development abuts the rear of an existing development and no rights of way have been provided.~~

19.21.030 - Sidewalk requirements for new streets.

B. Timing of Improvements.

1. Sidewalks,landscaping and curb ramps shall be provided by the developer at the time of road construction on all new freeway frontage roads unless disallowed by TXDOT, arterial streets, or collector streets, except on individual lots fronting on or siding up to such street. The developer may choose to provide security in accordance with this chapter and to delegate the requirement to construct such sidewalks, landscape and curb ramps to the purchaser of a lot or their builder as a part of the building permit for a period of three~~two~~ years from the date of acceptance of the adjacent street. However, at the end of the three~~two~~-year time period, the developer shall make arrangements to complete the missing sidewalks, landscape and curb ramps or in lieu of such arrangements, the city may utilize the security to complete the sidewalks. As sidewalks, landscape and curb ramps are completed during the three~~two~~ year period, the developer may request the partial release of security for the completed portions in accordance with this title.

19.41.010 - Time of expiration.

A. Unless otherwise expressly provided by this title, an approved plat application shall automatically expire on the third~~second~~ anniversary of the approval date of the application, and shall become null and void, and all activities under the permit thereafter shall be deemed in violation of this code, if:

1. The applicant fails to satisfy any condition that was imposed by this code or as part of the approval of the application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term;

2. The applicant fails to submit a subsequent complete application required by this title within the time so required; or

3. If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be three~~two~~ years from the date the application was approved, except as provided in Section 19.41.060

19.46.030 - Appeal requirements.

C. Study Required. The petitioner shall provide a copy of any stud~~y~~ies submitted with the development application or plat ~~in~~that support ~~of~~ the petition for relief ~~that~~ includinge~~s~~ the following information:

1. Impact of the proposed development on the capacity of the city's water, wastewater, stormwater, parks, or roadway system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.

2. Comparison of the capacity of the city's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the city's public facilities system(s) from the entire development shall be considered.

3. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the city.

D. Time for Filing Appeal and Study. An appeal shall be filed with the responsible official within thirty~~ten~~ business days from the date the requirement to dedicate land or to construct public improvements for dedication to the public is imposed on the applicant. The study in support of the petition shall be filed within sixty business days of the initial decision, unless the petitioner seeks an extension in writing. The responsible official may extend the time for submitting the study for a period not to exceed an additional thirty business days for good cause shown.