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ORDINANCE No. 1915.20

AN ORDINANCE TO AMEND ORDINANCE NO. 1723.01 IN ITS ENTIRETY, ADOPTING APPROVING AND ENACTING THE “SUBDIVISION ORDINANCE OF THE CITY OF SAN ELIZARIO, EFFECTIVE SEPTEMBER 1, 2019” AND AMENDING AND REENACTING THE SUBDIVISION ORDINANCE IN ITS ENTIRETY TO CONTINUE PROVIDING THE STANDARDS AND REGULATIONS FOR THE ACCEPTANCE AND PROCESSING OF SUBDIVISION PLATS AND SITE DEVELOPMENT PLANS FOR LAND WITHIN THE CITY LIMITS AND ITS EXTRATERRITORIAL JURISDICTION; ESTABLISHING A MISDEMEANOR OFFENSE AND FINES NOT TO EXCEED \$500 PER DAY AND CIVIL PENALTIES UP TO \$1000 PER DAY FOR VIOLATIONS THEREOF; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, ADOPTION, ENACTMENT, REPEALER, SEVERABILITY AND EFFECTIVE DATE.

RECITALS

WHEREAS, the City Council ("Council") of the City of San Elizario, Texas (“City”) seeks to continue to provide for the orderly and safe development of land and use of property within its city limits and extraterritorial jurisdiction, and desires to avoid development that may constitute a public nuisance, impose an unreasonable burden on public infrastructure, or unreasonably disturb and devalue adjoining properties; and

WHEREAS, the Council has the general authority to regulate land use and development and nuisances pursuant to the Texas Constitution, the City’s police power and Texas Local Government Code Chapters 51, 54, 211, 212, 217; and

WHEREAS, pursuant to Texas Local Government Code Chapter 212, the City may adopt rules governing plats and the subdivision of land within its jurisdiction to promote the health, safety, standards, and general welfare of the City; and

WHEREAS, a public hearing on the proposed readoption of the comprehensive "Subdivision Ordinance of the City of San Elizario" was held and conducted in accordance with Local Government Code Section 212.002; and

WHEREAS, the Council finds that the administrative and regulatory rules and procedures for subdivision and land development proposed in the readopted "Subdivision Ordinance" are necessary and prudent updates and revisions to the "Subdivision Ordinance", and will promote healthful and orderly growth and development in the City; and

WHEREAS, various amendments are included within this Ordinance to address additional issues that have been identified relating to unique situations involving the subdivision and development of land in the City, to improve City processing of plats, and to comply with new requirements under H.B. 3167, 86th Texas Legislature, effective September 1, 2019; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the Council finds that it is necessary and proper for the good government, peace, or order of the City of San Elizario to amend and readopt the "Subdivision Ordinance".

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of San Elizario:

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE II. ENACTMENT

In accordance with Texas Local Government Code Chapters 51 and 212, the City Council of the City of San Elizario hereby adopts and enacts this Ordinance readopting "*Subdivision Ordinance of the City of San Elizario*" and amending the Ordinance in its entirety as contained in Attachment A, attached hereto and incorporated fully herein.

ARTICLE III. REPEALER AND SEVERABILITY

REPEAL AND REPLACEMENT; CONTINUATION OF PRIOR ORDINANCE: That by amending Ordinance No. 1723.01 in its entirety, it is effectively repealed and replaced by the

provisions of this Ordinance simultaneously upon the effective date of this Ordinance for the matters covered in the ordinance including the processing of applications received by the City on and after September 1, 2019. Provided however, the provisions of Ordinance No. 1723.01 shall remain in effect for the matters covered in the ordinance including the processing of applications received by the City prior to September 1, 2019.

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

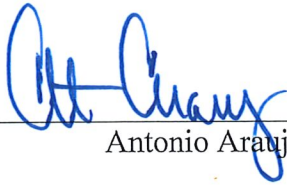
SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE IV. EFFECTIVE DATE

This Ordinance shall become effective September 1, 2019, following passage and publication.

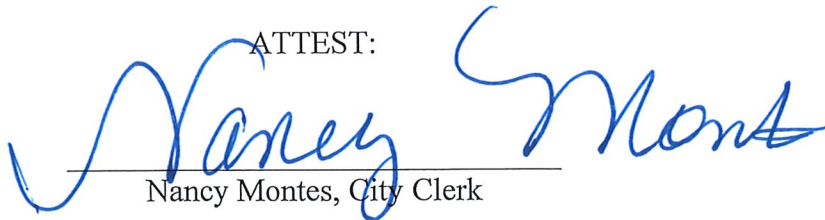
PASSED AND APPROVED this, the 27 day of August, 2019, by a vote of 3 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of San Elizario, Texas.

CITY OF SAN ELIZARIO, TEXAS



Antonio Araujo, Mayor

ATTEST:



Nancy Montes, City Clerk

**Subdivision Ordinance of the
City of San Elizario
Effective September 1, 2019**



CITY OF SAN ELIZARIO, TEXAS

SUBDIVISION ORDINANCE

AS EFFECTIVE SEPTEMBER 1, 2019

Adopted July 11, 2017
Initial Adoption, Effective July 25, 2017

Amended in its entirety, August 27, 2019, Ordinance No.
1915.20. Effective September 1, 2019

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ARTICLE I. GENERAL

SECTION 1. PROVISIONS APPLICABLE TO ALL PLATS

1.1 ENACTMENT

The following standards, rules and regulations shall be cited to and known as the Subdivision Regulations ("Regulations") of The City of San Elizario, Texas ("City") and also referenced herein as "this Ordinance". All subdivisions located inside the corporate limits of the City and within the City's extraterritorial jurisdiction shall conform to the requirements of these Regulations. Subdivisions which have received formal approval prior to the July 25, 2017 shall not be subject to these Regulations but shall be held to any previously imposed requirements.

1.2 PURPOSE AND OBJECTIVES

These Regulations are for the following purposes including, but not limited to:

- (a) To protect, promote and provide for the public health, safety, and general welfare of the City of San Elizario;
- (b) To encourage the orderly future growth and beneficial development of all parts of the City;
- (c) To protect and conserve the value of land throughout the City;
- (d) To provide the most beneficial relationship between the uses of land and the circulation of traffic throughout the City, having particular regard to the avoidance of congestion in the streets and highways; to provide for the proper location and width of streets and for the adequacy of drainage facilities;
- (e) To establish reasonable standards of design and procedures for subdivisions in order to further the orderly layout and use of the land and to insure proper legal descriptions and monumenting of subdivided land;
- (f) To encourage the installation of public facilities as herein defined with sufficient capacity to serve proposed subdivisions;
- (g) To safeguard the water table, and to encourage the wise use and management of natural resources;
- (h) To encourage the proper development, design and construction of road systems within the City; and
- (i) To ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of the City and to establish minimum standards for water and wastewater facilities.

1.3 PLAT REQUIRED; FEES AUTHORIZED

1.3.1 No subdivision plat shall be recorded until a Final Plat has been approved in accordance with this Ordinance, and with other applicable City regulations.

1.3.2 No certificate of acceptance for required public improvements shall be issued by the City for any parcel of land or plat until a Final Plat has been approved in accordance with this Ordinance; and either:

- (a) All improvements required by this Ordinance have been constructed and accepted by the City; or
- (b) Assurances for completion of improvements have been provided in accordance with this Ordinance.

1.3.3 No lot may be sold nor title conveyed and no building permit, certificate of occupancy, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public

improvements or a certification regarding compliance with plat requirements pursuant to Section 212.0015 of the Texas Local Government Code shall be issued by the City for any parcel of land or plat until:

- (a) A Final Plat has been approved in accordance with this Ordinance and recorded with the County records; or
- (b) The lot has otherwise been created or deemed approved in accordance with the provisions of this Ordinance; and
- (c) All improvements required by this Ordinance have been constructed and accepted or created and approved by the City; or
- (d) assurances for completion of improvements have been provided in accordance with this Ordinance.

1.3.4 Compliance with all City ordinances pertaining to the subdivision of land, and the Comprehensive Plan, shall be required prior to approval of any plat application or other application governed by this Ordinance. It is the responsibility of the property owner to be familiar with and to comply with City ordinances. Applicable ordinances and requirements include, but are not limited to, the following:

- (a) Comprehensive Plan, which includes the Future Land Use Plan, Thoroughfare Plan, and associated maps and plans;
- (b) Zoning Ordinance (as amended);
- (c) the EPMTHA Zoning Regulations;
- (c) Building Code (as amended);
- (d) Fire Protection Regulations as adopted by the ESD#2 on July 25, 2017, and as amended; and
- (e) Other applicable city ordinances (as amended).

1.3.5 The City is authorized to assess and collect fees for applications submitted pursuant to this Ordinance and engineering fees for costs incurred in reviews of said applications by the City Engineer.

1.4 JURISDICTION AND APPLICABILITY

1.4.1 Jurisdiction. This Ordinance shall be applicable to the filing of plats and the subdivision of land, within the city limits of the City and to the extraterritorial jurisdiction (ETJ) of the City of San Elizario. Adoption of this Ordinance does not limit or curtail the remedies and rights provided to the City by Texas Local Government Code Chapter 212 with regard to the control and approval of subdivisions and plats both within the City and within its ETJ.

1.4.2 Applicability. The provisions of this Ordinance shall apply to the following forms of land subdivision and development activity within the City and its ETJ:

- (a) The division of land into two or more tracts, lots, sites or parcels; or
- (b) All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the City's subdivision regulations in El Paso County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:
 - (1) Annexation; or
 - (2) Extension of the City's ETJ; or
- (c) The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or

(d) For tracts where any public improvements are proposed.

1.4.3 Subdivision Plat and Development Plat Rules. The provisions of this Ordinance, the standards governing water and wastewater facilities applicable to plats, and the technical standards contained in the Design Standards for Construction (DSC) of the City of El Paso, as amended, constitute the subdivision and development rules of the City of San Elizario which apply to applications for plat approval inside city limits and within the City's extraterritorial jurisdiction. The DSC shall be maintained by and be available from the City Administrator or from such other city staff as he has designated. Other ordinances of the City may also apply to land development and must be complied with.

1.5 EXEMPTIONS

1.5.1 The provisions of this Ordinance shall not apply to:

- (a) Development of land legally platted and approved prior to July 25, 2017, and for which no re-subdivision, or site development permit is required by City ordinance; or
- (b) Existing cemeteries complying with all State and local laws and regulations; or
- (c) When a building permit is requested for unplatted or already platted parcels for one or more of the following activities:
 - (1) Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage, nor deviate from the original location, of the original structure;
 - (2) Building additions, which do not increase the square footage of an existing residence or other structure, in an amount not over one hundred percent (100%) of the existing structure's value, nor increase the gross area of the structure over fifty percent (50%);
 - (3) Accessory buildings (as defined in the Zoning Ordinance or the EPMTHA Zoning Regulations);
 - (4) Remodeling or repair which involves no expansion of square footage; or
 - (5) Moving a structure off a lot or parcel, or for demolition permits.
- (d) For a division of land into parts greater than five (5) acres, where each part has access and no public improvement is being dedicated, as provided under subchapter A of chapter 212 of the Texas Local Government Code, as amended, a plat is not required, however, the property owner must establish that this exemption applies by submitting documentation, which may consist of a concept plan in accordance with this Ordinance.

1.5.2 Exemptions from the Requirement of a Plat; Land Divisions. The following land divisions are exempt from the requirements of this Ordinance that apply to plats, provided that the applicant has an approved exemption determination application in accordance with subsection 1.5.4 of this section:

- (a) The combining of two or more legally recorded lots into one parcel will not be required to be platted or 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 or the EPMTHA Zoning Regulations; or

- (b) 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 platting or replatting, provided each new lot complies with the zoning ordinance or the EPMTHA Zoning Regulations. 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. A division of a tract under this Ordinance includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method; or
- (c) Notwithstanding contrary provisions in the Zoning Ordinance or the EPMTHA Zoning Regulations, the division of a legally recorded lot not located within a platted subdivision, into two portions shall be allowed without platting, provided that each lot has a minimum lot square footage of 4,000 square feet, a minimum lot width of 40 feet, a minimum lot depth of 80 feet, a minimum front and rear yard of 10 feet, a minimum side yard of such distance that is greater than 5 feet and in conformity with City building regulations and a minimum side yard adjacent to street of 10 feet; or
- (d) 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; and
- (e) Provided, however, that on those parcels described in subsections (a), (b), (c) and (d) above, no right-of-way or additional right-of-way or public easements must be created or dedicated, or public utilities or roadways must be constructed.
- (f) Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is intended, provided however, that prior to construction of improvements, a plat meeting the requirements of this Ordinance shall be completed and recorded.
- (g) A division of land created by order of a court of competent jurisdiction, provided however, that prior to construction of improvements, a plat meeting the requirements of this Ordinance shall be completed and recorded prior to the issuance of permits.
- (h) A lot that was (1) legally recorded but not platted prior to July 25, 2017 or is located within a platted subdivision that does not restrict the number of dwelling units on each lot to one dwelling unit by plat note, restrictive covenant or other lawful means; (2) contained, on July 25, 2017, more than one dwelling unit but not exceeding five dwelling units; (3) owned by the same owner of record continuously from a time prior to July 25, 2017 to the date of the application for an exemption determination, irrespective of the ownership of the individual dwelling units; and (4) has frontage on a dedicated public or private street and has established access from such street to each dwelling unit. Provided however, that if the owner of a lot granted an exemption under this subsection seeks to subdivide such lot, the exemption granted herein shall terminate, and the owner shall be required to follow all the requirements of this Ordinance for such subdivision.
- (i) Bona fide agricultural activities.
- (j) Construction of agricultural accessory structures and related development activities.
- (k) 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, notwithstanding any contrary side yard requirements under the Zoning Ordinance or the EPMTHA Zoning Regulations, provided that the following requirements are met:

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

- (l) The acquisition of land by the City for the purpose of providing stormwater drainage facilities or land required for roadway or other public facilities.
- (m) Land to be used for electric company substations or minor utility facilities as defined in subsection 2.2 of this Ordinance.

1.5.3 Exemptions from the Requirement of a Plat; Remainder Tract. The following types of lots are exempt from the requirements of this Ordinance that applies to plats and are not required to obtain an exemption determination application in accordance with subsection 1.5.4 of this section:

- (a) Creation of a remainder tract in accordance with Section 3.15.3 or Section 4.3.1 of this Ordinance, provided such remainder tract is suitable for development in the future and does not make any other tracts undevelopable under current City of San Elizario ordinances, and provided further, that prior to construction of improvements, a plat meeting the requirements of this Ordinance shall be completed and recorded prior to the issuance of permits in the former remainder tract.

1.5.4 Exemption determination.

- (a) For any application for a development permit for which exemptions are listed, an exemption from the requirement to apply for such permit or approval, or the issuance of an exemption determination for any other purposed under this Ordinance, shall be determined in the following manner:
 - (1) The application for exemption must be submitted on a form supplied by the City Administrator and accompanied by a check or money order payable to the City in the amount of all applicable fees, and must include all of the following information:
 - (i) Name, address, and telephone number of the property owner and the applicant;
 - (ii) A brief description of the activity or development for which exemption is sought;
 - (iii) A scale drawing depicting the boundaries of the site, the location of existing improvements on the site, and the location of the proposed development activities on the site;
 - (iv) Information establishing the basis for the exemption and compliance with all requirements.
 - (2) The City Administrator shall notify the applicant of the decision. If the City Administrator denies the request for exemption in conjunction with an application for a development permit, the City shall require that an application for the development permit or approval be prepared in accordance with this Ordinance. If the City Administrator denies the request for exemption

for any other purpose under this Ordinance, the decision may be appealed in the same manner as an appeal of a stop work order and the P&Z is authorized to hear the appeal and make a determination.

- (b) An exemption under this subsection is a separate and distinct consideration and does not exempt the subject property from any other development requirements.
- (c) The approval of an application and determination of an exemption under this subsection will make the property and/or dwelling units on the property eligible for obtaining an address(es) in accordance with City ordinances and procedures and may be used in connection with requesting a certification regarding compliance with plat requirements under Section 212.0115 of the Texas Local Government Code, as amended.

1.5.5 Pending Applications.

1.5.5.1 All applications for plat approval, including Final Plats, that are pending on July 25, 2017 and which have not lapsed shall be reviewed under the regulations in effect immediately preceding July 25, 2017.

1.5.5.2 All applications for plat approval that are pending on September 1, 2019 and which have not lapsed shall be reviewed under the regulations immediately preceding September 1, 2019, the effective date of this Ordinance.

1.5.5.3 Any application that was filed prior to September 1, 2019 may be withdrawn by the applicant and the applicant may refile a new application under the appropriate provision(s) of this Ordinance which shall then be applicable to the new application. Upon filing such new application(s), the City Administrator is delegated the authority to review the circumstances relating to the withdrawal of the previous application and the re-filing of a new application under this Ordinance, and when in the interests of fairness, determine whether the applicant must pay any additional fees for the new application based on fee increases implemented in Ordinance No. 1903.05.01 or if the applicant should be entitled to a refund in an amount determined by the City Administrator.

1.6 INTERPRETATION; CONFLICT; SEVERABILITY

1.6.1 Interpretation and Application. The principles, standards and requirements provided for in this Ordinance shall be minimum requirements for the platting and developing of subdivisions for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

1.6.2 Conflict with Other Laws. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in this Ordinance. To the extent that this Ordinance promulgates standards or imposes restrictions or duties that differ from those imposed by other city ordinances, rules or regulations, the regulations contained within this Ordinance shall supersede such other provisions to the extent of any conflict or inconsistency.

1.6.3 Private Provisions. The regulations herein are not intended to abrogate any easement, covenant or any other private agreement or restriction provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and

obligations more restrictive, or higher standards than the requirements herein, and such private provisions are not inconsistent with these regulations, then such private provisions shall be operative and a supplement to these Regulations.

1.6.4 Severability. If any part or provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered, and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application that is judged to be invalid.

SECTION 2. DEFINITIONS

2.1 GENERAL

Words, phrases and their derivations used in this Ordinance shall have the meanings set forth in this section. Words and phrases that are not defined below but are defined elsewhere in the San Elizario Code of Ordinances, shall be given the meanings set forth in those other ordinances. Definitions not expressly prescribed therein are to be determined in accordance with customary usage in municipal planning, surveying, and engineering practices. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

2.2 SPECIFIC

ACCESS, ACCESS WAY: a public or private street by which pedestrians and vehicles shall have lawful and usable ingress and egress to a property line.

ACCESS STREET: any street within a subdivision or along the boundaries of a subdivision which would serve any properties outside the plat boundaries or provide a connection directly with a collector street.

ADOPTED FEE SCHEDULE: the schedule of the various fees required under this Ordinance as shall be established, created or adopted by separate ordinance including the budget ordinance or appropriate resolution of the City Council, as amended and from time to time, and as current as of the date of any payment is required or due under this Ordinance. Such fees and charges shall be imposed and collected as set forth in this Ordinance, regardless of the action taken by the P&Z and City Council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical and inspection services necessary to property review and investigate plats or conduct the other work required under this Ordinance.

AMENDING PLAT: a plat, previously approved by the City of San Elizario, Texas or County of El Paso prior to July 25, 2017, and duly recorded, which is resubmitted to the City of San Elizario, Texas, for approval and recording and which contains dimensional or notational corrections of erroneous information contained on the originally approved and recorded plat. An Amending Plat is not a replat or resubdivision and may not contain any changes or addition to the physical characteristics of the original subdivision, but is intended only to correct minor errors or miscalculations.

ARROYO: a naturally occurring elongated depression in the earth, including the sloping sides from rim to rim, following an historic waterflow that may temporarily fill with water after a stormwater runoff event.

ARTERIAL STREET: a principal traffic artery carrying higher volumes of traffic than an access street and connects areas throughout a subdivision and to State Highways.

BOND: any form of a surety bond in an amount and form satisfactory to the City.

CAPITAL IMPROVEMENTS PROGRAM (CIP): the official proposed schedule, if any, of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by City Council.

CLEARING AND GRUBBING: the removal and disposal of trees, stumps, brush, roots, vegetation, logs, rubbish and other matter from a designated right-of-way.

CITY COUNCIL: the City Council for the City of San Elizario, Texas.

COMMERCIAL UNIT DEVELOPMENT: a platted lot, zoned for commercial or industrial uses, which is further divided into more than one lot and where all additional lots are provided access to a public or private street through a private easement. The access shall be a parcel of land over which a private easement for road purposes, having a minimum paved width of twenty feet, is granted to all owners of property within the commercial unit development. In each instance the instrument creating such private easement, including the original agreement and any changes thereto resulting from the sale, lease or creation of additional lots, shall be held in perpetuity between all signatories, owners, or lessees to the agreement or their successors in interest, shall run with the land and be unseverable, and shall be duly recorded and filed with the office of the county clerk.

COMPREHENSIVE PLAN: the comprehensive plan of the City and adjoining areas as adopted by the City Council, including all its revisions and plan elements including, but not limited to, the future land use plan, thoroughfare plan, parks and open space plan, etc. This plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements.

CONCEPT PLAN: a drawing of the overall conceptual layout of a proposed development, superimposed upon a topographic map which generally shows the anticipated plan of development, and which serves as a working base for noting and incorporating suggestions of the City's administrative officials and others who are consulted prior to preparation of the Preliminary Plat. A concept plan is also sometimes referred to as a "preliminary site plan" or a "land study."

COUNTY: El Paso County, Texas.

CITY ADMINISTRATOR: the City Administrator or designee of the City Administrator or the Mayor. The City Administrator is authorized to delegate his responsibilities and duties as he deems appropriate and to designate staff or contractors to assist with and perform, in whole or in part, the duties and obligations imposed on the City Administrator by this Ordinance.

CITY ENGINEER: the Engineer for the City of San Elizario or designated agent.

DAY; DAYS: shall mean calendar day or days unless specified otherwise; business day or days shall mean Monday through Friday, excluding any City or Federal holiday.

DDM; DRAINAGE DESIGN MANUAL: shall mean the manual located at the following Internet URL (address) as of July 25, 2017:

<https://www.elpasotexas.gov/~media/files/coep/city%20development/permits/building%20permits%20and%20review/drainage%20design%20manual.ashx?la=en>

DESIGNATED 100-YEAR FLOOD PLAIN: an area designated, based on El Paso County Flood Plain Management regulations, to have a one percent chance of being inundated from flood waters in any given year.

DEVELOPER: the person(s) or entity, including a governmental entity, undertaking the division or improvement of land and other activities covered by this Ordinance, including but not limited to the preparation of a plat showing the layout of the land and the public improvements involved therein. The term "developer" shall mean and include the terms "subdivider" and, when submitting platting documents or other applications provided for under this Ordinance, "applicant."

DRAINAGE CONTROL FACILITY: a facility installed or constructed in conjunction with a drainage control plan for the purpose of controlling the rate and/or stormwater runoff.

DRAINAGE CONTROL PLAN: a plan for collecting, controlling, transporting and imposing of stormwater falling upon, entering, flowing within, or exiting the subject property.

EL PASO MISSION TRAIL HISTORICAL AREA ZONING REGULATIONS; EPMTHA ZONING REGULATIONS: The duly adopted zoning regulations for the El Paso Mission Trail Historical Area, as amended.

ESD#2: the El Paso County Texas Emergency Services District No. 2.

FINAL PLAT also "*record plat*", "*Final Plat*" or "*as-built plat*": the one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references and recorded in the land records of El Paso County, Texas. An Amending Plat or a replat is also a Final Plat.

LOCAL STREET: a street or a road which is intended primarily to serve traffic within a neighborhood or residential district and provides access to adjacent land over short distances.

LOT: an undivided tract or parcel of land having frontage and/or access to an existing or proposed private or public street and shown either on a plat of record or described by metes and bounds.

LOWER VALLEY WATER DISTRICT; LVWD: a municipal utility district which offers water, wastewater and solid waste services to residents in its service area which includes the City.

MAJOR PLAT; MAJOR SUBDIVISION: all plats not classified as Minor Plats or an Amending Plat, including but not limited to subdivisions of more than four lots, or any plat that requires the construction of a new street or portion thereof, or the extension of a municipal facility as required by this or any other City ordinance.

MINOR PLAT; MINOR SUBDIVISION: a subdivision resulting in four or fewer lots, provided that the plat is for conveyance purposes only with no development or construction proposed, and provided that the

plat does not create any new easements for public facilities nor the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a Minor Plat shall already be served by all required city utilities and services.

MINOR UTILITY FACILITIES: minor utility facilities shall include facilities which are necessary to support principal development including, but not limited to, lines, poles, pipes, drains, conduits, wires, meters, valves, hydrants, cross-connection control devices, transformers, gauges and other similar facilities which serve to distribute and transmit electrical power, gas, water and other essential public utilities; bus shelters, terminals and other similar facilities necessary for mass transportation service; bridges, catch basins, channels, culverts, detention ponds, ditches, flumes, pipes and other similar facilities which serve to carry, store, divert or collect storm drainage from land; and which minor utility facilities are customarily placed within a public right-of-way or public easement.

MONUMENTING: the process of establishing permanent markers to locate a boundary of a subdivision and/or establishing right-of-way limits or centerlines.

NATURAL DRAIN: that course which water naturally and normally follows in drainage from higher to lower lands.

NATURAL LOCATION OF DRAINAGE SYSTEMS: the location of channels, swales, arroyos, and other conveyance systems, not manmade, existing as of July 25, 2017.

NEIGHBORHOOD COLLECTOR STREET: a street or road collecting traffic from other streets and collectors and serving as the most direct route to an arterial, State highway or a neighborhood center.

NON-PUBLIC WATER SYSTEM: a water system supplying water for domestic purposes which is not a public water system.

PANHANDLE LOT: a lot lacking frontage except for access provided by way of a narrow projection of the lot to the street.

PLANNING AND ZONING COMMISSION, COMMISSION, P&Z: the Planning and Zoning Commission of the City.

PLAT: a Preliminary Plat, Final Plat, development plat, Amending Plat or replat, as determined by the context.

PLATTED: recorded with the City and the County of El Paso in an official plat record.

PRELIMINARY PLAT: the graphic expression of the proposed overall plan for subdividing, improving and developing a tract, showing in plain view the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development for review and preliminary approval by the City but not suitable for recording in the County records.

PRIVATE STREET: a vehicular access under private ownership and maintenance, providing access to residential dwelling units or any part located more than three hundred feet (300) from an approved public street right-of-way. A private street shall also include any vehicular access to three (3) or more residential units. Parking lots and private driveways within shopping centers, institutions, commercial areas and industrial developments are not private streets.

PROPOSED GRADE: the final elevation as shown on improvement plans.

PUBLIC IMPROVEMENTS: facilities, infrastructure and other appurtenances, typically owned and maintained by the City, which serve a public purpose in providing a needed service or commodity, to include wastewater collection and treatment and water storage and distribution, and which protect the general health, safety, welfare and convenience of the citizens of San Elizario, including efficiency in traffic circulation and access for emergency services. Required public improvements may include, but shall not be limited to, street and alley paving, including any necessary median openings and left turn lanes on major thoroughfares; water lines and pumping stations; sanitary sewer lines and lift stations; storm drainage structures and storm water management devices; water quality and erosion controls; screening and retaining walls; fire lane paving and fire hydrants; landscaping, where such is used for required screening or other required landscaped area, and associated irrigation system; and any required public sidewalks, street lights and street name signs. The term "public improvements" shall not include facilities or infrastructure of private providers of utility services other than water and wastewater, but shall be deemed to include facilities and infrastructure that the City would normally require of a development but which will be owned and maintained by an entity such as a homeowners association, as in the case of private streets.

PUBLIC INFRASTRUCTURE IMPROVEMENT: a water, wastewater, roadway, drainage, or park facility that is a part of one or more of the City's public facilities systems.

PUBLIC FACILITIES SYSTEM: the collection of water, wastewater, roadway, drainage, or park facilities owned or operated by or in behalf of the City for the purposes of providing services to the public, including existing and new developments.

REMAINDER TRACT: a portion of a larger parcel that is not included within the boundaries of the portions of the parcel platted in any type of plat. Remainder tracts shall not be considered lots or tracts of the subdivision and may be depicted on a plat only for informational purposes and when including the required plat note. Approval of a plat shall not constitute approval of development on a remainder tract.

REPLATTING; REPLAT: the re-subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.

PUBLIC STREET: a public right-of-way which provides vehicular access to adjacent properties.

PURCHASER: purchasers of real property under contract.

RESIDENTIAL COLLECTOR STREET: a street or road collecting traffic from local streets of a residential nature and leading to streets of a higher classification.

SANITARIAN: a person registered as a Professional Sanitarian by the Texas Department of State Health under the authority of Texas Occupations Code Chapter 1953, as amended.

SECURITY: a surety instrument or other financial mechanism to guarantee performance of an act or construction of required improvements in accordance with Section 5.2 and in an amount and form satisfactory to the P&Z, the city council and as provided under this Ordinance or the county commissioner's court as applicable.

SHARED DRIVEWAY(S): a common driveway used by more than one residential dwelling when allowed by the provisions of this Ordinance. When allowed, the shared driveway(s) shall be designated on a plat and the subdivider shall establish a shared driveway agreement that (1) establishes the ownership and rights of the use of the driveway(s), (2) establishes the process by which the driveway(s) will be maintained, (3)

be recorded in the land records of the County of El Paso, and (4) the instrument number shall be noted within the plat notes. If a shared driveway exceeds 50 feet in length, the driveway shall either be a minimum of 16 feet wide or shall provide for a turn-around for passenger cars and light duty trucks at the end(s) of the shared driveway and the plat or the plat notes shall include a statement of this requirement.

STREET: a right-of-way, whether public or private and however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:

- (1) *Major thoroughfares*, also known as *arterial streets* or *primary thoroughfares*, which provide vehicular movement from one neighborhood to another or to distant points within the City, and including freeways or highways leading to other communities.
- (2) *Collector streets*, also known as *feeder streets* or *secondary thoroughfares*, which provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.
- (3) *Local residential streets*, also known as *minor thoroughfares* or *streets*, which primarily provide direct vehicular access to abutting residential property.
- (4) *Private streets* are streets which are owned and maintained by a homeowners association or property owners association, and which are not dedicated to the public.

STREET IMPROVEMENTS: any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare, and including but not limited to curbs and gutters, walkways (sidewalks), drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic control devices, street lights and street signs, for which facilities the City will ultimately assume the responsibility for maintenance and operation.

STREET DEDICATION PLAT: a map or drawing illustrating the location of a public street within a specific tract of land.

SEWERAGE FACILITIES: the devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards.

STUB-END STREET: a public street not terminated by a permanent circular turnaround, ending adjacent to undeveloped property or acreage for later extension upon development or subdivision.

SUBDIVIDER: an owner of land or authorized agent dividing or proposing to divide land to constitute a subdivision. The term "subdivider" shall also mean and include the term "developer".

SUBDIVISION:

- (1) Subdivision means a division of any parcel of land situated within the corporate limits or the extraterritorial jurisdiction, in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to the City, or for laying out of suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.
- (2) Subdivision of any lot, tract or parcel of land into two or more lots or sites, for the purpose of sale or of building development, whether immediate or future, and the vacation and resubdivision of land or lots, shall be subject to the prior approval of the City Council in accordance with the terms of this article and applicable state law. The terms "subdivision" and "resubdivision" shall not include any condemnation by, or the conveyance or dedication to, any governmental entity of a

portion of any lot, tract or parcel of land for additional right-of-way for any existing public street or highway, provided such condemnation, conveyance or dedication does not divide so much of the lot as was not so condemned, conveyed or dedicated into two or more lots, tracts or parcels, and provided in case of conveyance or dedication that such division be by metes and bounds description and not by plat and not be pursuant to or in connection with any division or redivision of the whole or any part of so much of the lot as is not so conveyed, dedicated or condemned. A division of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this definition does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.

SUBMISSION DATE: the date is when all necessary forms, fees, plans, information and copies have been submitted to the City, previewed for completeness, and deemed as "complete" by action of issuance of a fee receipt by the City.

SURVEYOR: a land surveyor or a registered public surveyor licensed in the State of Texas.

TCSS; DCS: The City of San Elizario's Technical Construction Standards and Specifications for the construction of subdivision improvements. A TCSS manual will be developed and adopted by the City following adoption of the subdivision ordinance. In the interim, and in the alternative, the "City of El Paso Design Standards for Construction" shall serve as the City's manual for standards and specifications required under this Ordinance and is available at

<https://www.elpasotexas.gov/~media/files/coep/capital-improvement/home%20page/design%20standards%20for%20construction%20section.ashx?la=en>

TRANSPORTATION PLAN: the City's general plan for thoroughfare system development, including roads, streets and public highways, sidewalks, rights-of-way, for projecting the future mobility needs of the City. (A plan is currently under creation for future adoption and implementation by the City.)

UNRECORDED SUBDIVISION: a subdivision of land into lots or tracts for which a plan or plat has not been recorded or authorized for recording.

WATER FACILITIES: any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for human use and consumption.

ZONING ORDINANCE: The duly adopted ordinance of the City titled as the "Zoning Ordinance", as amended, or as may be repealed and replaced from time to time.

ARTICLE II. PLAT APPLICATION AND APPROVAL PROCESS

SECTION 3. APPLICATION REQUIREMENTS

3.1 PRE-APPLICATION PROCEDURES

- 3.1.1 Applicants shall avail themselves of the advice and assistance of the City's administrative officials, including its retained planning and engineering consultants (as applicable), and are required to participate in a pre-application conference before submitting a request for any type of plat under this Ordinance other than a Final Plat. Applicants are encouraged to consult early and informally with these officials and consultants before preparing a plat in order to save time and money, and to avoid potential unnecessary delays.
- 3.1.2 All applicants shall schedule and attend a mandatory pre-application conference with the appropriate City official(s) in order to become familiar with the City's development regulations and the subdivision process. At the pre-application conference, the applicant may be represented by Owner's land planner, engineer and/or surveyor. No development right (if any) shall vest upon participation in any pre-application conferences. Applicant shall inform the City at least five (5) business days prior to any pre-application conference or other meeting if the Applicant intends to bring a legal representative to a meeting.
- 3.1.3 Prior to the pre-application conference, the applicant must provide a check payable to the City in the amount as may be established by the City Council. If the application moves forward within the time frame established under subsection 3.1.4 below, then 50% of the pre-application conference fee shall be applied to the fee for the type of application that moves forward.
- 3.1.4 After a pre-application conference, the City shall issue a certification of completion of the pre-application conference that is valid for a period of ninety (90) days. If a submission not deemed a complete application and officially filed within that time period, a new or additional pre-application conference will be required.
- 3.1.5 The applicant should be prepared to submit a proposed addressing scheme that will comply with the City's addressing requirements at the pre-application process, particularly when the subdivision is within an already addressed, but unplatted neighborhood or area of the City.
- 3.1.6 An applicant or other interested individual may request a planning meeting that is an informal meeting related to land use questions. A planning meeting is a meeting with city staff that does not meet the pre-application conference requirement, nor shall any vested rights accrue from the holding of any discussion or advice that occurs during a planning meeting. No documentation or approvals may be given during a planning meeting.

3.2 COMPLIANCE WITH COMPREHENSIVE PLAN

Any plat submitted for approval by the City shall be in accordance with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space and transportation plans. All plats shall be prepared by a licensed civil engineer.

3.3 COMPLIANCE WITH ZONING

- 3.3.1 Zoning Requirement. A property within the City's corporate limits that is being proposed for platting or development must be properly zoned by the City prior to submission of an application for approval of any plat. In addition, the proposed development layout or subdivision design shown on the proposed plat must be in conformance with all standards and requirements prescribed in the City's Zoning Ordinance, the EPMTHA Zoning Regulations and this Ordinance. Property in the City's ETJ shall be developed in accordance with the City's comprehensive plan.
- 3.3.2 Noncompliance. Noncompliance with the requirements of the zoning district in which the subject property is located, or lack of the proper zoning, shall constitute grounds for denial of the plat. In situations where the zoning on a particular piece of property cannot be ascertained by the City, the burden of proof regarding the property's zoning shall rest with the property owner. Proof of proper zoning shall consist of appropriate documentation, such as a copy of the ordinance establishing the zoning, which shall be reviewed by City officials as to its validity and authenticity.

3.4 CLASSIFICATION OF SUBDIVISIONS; APPROVAL

Before any plat is filed for recordation with the County Clerk, the property owner shall apply for and secure City approval of the required subdivision plat(s), in accordance with the following procedures, unless otherwise provided within this Ordinance.

- 3.4.1 Minor subdivisions may be approved for residential or nonresidential properties. Minor Plat approval by the City Administrator requires the submission of a Final Plat drawing and other submission materials required by this Ordinance. Lots or Units may be conveyed or sold only when the plat has been approved by the City Administrator and the plat has been filed with El Paso County.
- 3.4.2 Major subdivisions may be approved for residential or nonresidential properties. Major plat approval shall be in accordance with this Ordinance. The procedure for approval of a major subdivision involves three steps: a pre-application conference, Preliminary Plat and Final Plat. All major subdivision plats must be reviewed by the P&Z and approved by the City Council. Upon completion of the required public improvements, or upon submission and City approval of the appropriate surety for public improvements, the property owner may submit the Final Plat for approval. No conveyance or sale of any unit, portion or lot of the property may occur until after the Final Plat is approved by the City Council and filed with El Paso County.

3.5 SUBMISSION OF SUBDIVISION PLAN OF LARGER TRACT

When the subdivision is a portion of a tract later to be subdivided, a general development plan, *i.e.*, master plan of the entire subdivision, showing a schematic layout of the entire tract shall be submitted with the plan of the portion first to be subdivided in accordance with the requirements for Master Plat Procedures contained in this Ordinance.

3.6 OFFICIAL FILING DATE; COMPLETENESS OF APPLICATION FOR ALL PLATS

- 3.6.1 Official Filing Date. For the purpose of this Ordinance, the "official filing date" shall be the date upon which a complete application for approval of any type of plat which contains all required elements mandated by the Local Government Code, Section 212, as amended, and this Ordinance, and is submitted to the City Administrator and verified and determined as being complete. In addition, the application must be submitted to the City within the timelines established by this

Ordinance and accompanied by a check or money order payable to the City in the amount of all applicable fees. It is only after the official filing date that any statutory period required for approval or disapproval of the plat shall commence to run.

3.6.2 Complete Application Requirement. No application shall be filed and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Ordinance. Plat applications which do not include all required information and materials will be considered incomplete and shall not be considered as being officially filed by the City. Plat applications which do not include all required information and materials, as outlined in this Ordinance or any other ordinances of the City shall not be accepted for official filing by the City and shall not be scheduled on a P&Z agenda until the proper information is provided to the City. The following procedures shall apply to any application that is required by the City and is submitted in accordance with this Ordinance.

3.6.2.1 Determination of Completeness. Every required application shall be subject to a determination of completeness by the City Administrator in order for the application to be accepted and officially filed and for the official filing date to be established.

3.6.2.1.1. No required application shall be accepted and filed by the City Administrator unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Ordinance, to include but not be limited to the requirements of Section 3.7 below.

3.6.2.1.2 No required application shall be accepted and filed by the City Administrator until it is determined that the application is being filed in the proper sequence and at the required time. (E.g., a Preliminary Plat application will not be accepted if the applicant failed to attend the pre-application meeting.)

3.6.2.1.3. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Ordinance.

3.6.2.1.4. A determination of completeness shall be made by the City Administrator in writing to the applicant as expeditiously as possible, but in no event, no later than the 10th business day after the date that the required application is submitted to the City Administrator.

(a) If the required application is determined to be complete, the application shall be filed as of such day that the application is determined to be complete and processed as prescribed by this Ordinance or as required by state law.

(b) If the required application is determined to be incomplete, a letter of notification of incompleteness shall be sent to the applicant no later than the 10th business day after the date that the application was initially submitted. The notification shall specify the documents or other information needed to complete the application and shall include a notice that the application must be completed within forty-five days of the date of the letter and state the date the application will expire if the documents or other information are not provided by the applicant or their consultants.

(c) If no letter of notification of incompleteness is given to the applicant no later than the 10th business day after receipt of initial submittal, the application shall be determined to be submitted as of 10th business day after receipt of the initial submittal and processed as prescribed by this Ordinance or as required by state law.

3.6.2.2 Resubmittal after Notification of Incompleteness. If the required application is resubmitted after a notification of incompleteness prior to the time period established for the expiration of

an application, and the resubmitted application includes all information and documents noted in the notification of incompleteness, the application shall be deemed as filed upon determination, within 10 working days, that the resubmittal is complete. However, to the extent that the information or documents submitted is not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.

3.6.2.3 Expiration of Application.

3.6.2.3.1. An application shall expire on the forty-fifth day after the date the application is submitted if:

- (a) The applicant fails to provide documents or other information necessary to comply with the city's requirements relating to the required application;
- (b) The city has provided to the applicant, not later than the 10th business day after the date the application is submitted, unless otherwise specified, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
- (c) The applicant fails to provide the specified documents or other information within the time provided in the notification.

3.6.2.3.2. If the required application is not completed by the forty-fifth day after the application was initially submitted to the City Administrator, the required application will be deemed to have expired and it will be returned to the applicant together with any accompanying information.

3.6.3 Zoning District. For properties within City boundaries, an application for a plat shall not be considered complete unless accompanied by a copy of the applicable provision of the zoning ordinance, the EPMTHA Zoning Regulations, or other certification verifying that the proposed use for which the application is submitted is authorized by the zoning district in which the property is located.

3.6.4 Timing. In accordance with Texas Local Government Code Sections 212.0085, 212.009, 212.0091, 212.0093, 212.0095 and 212.0097 of the Texas Local Government Code, as amended the P&Z shall act on a complete filed plat application within 30 days of the official filing date and the City Council shall act on said complete filed application within 30 days after the plat is approved by the P&Z.

3.6.5 Vested Rights. No vested rights accrue solely from the filing of an application that has expired pursuant to this Ordinance, or from the filing of a complete application that is subsequently denied.

3.7 APPLICATION REQUIREMENTS AND SUBMISSION MATERIALS

3.7.1 The application for all plats provided for in this Ordinance shall be submitted to the City during normal business hours, Monday through Thursday of each week, excluding holidays, and in accordance with the pre-application conference certificate of completion. The City Council, by resolution, may further restrict the days and times on which an application for a plat may be submitted to the City. The submitted application shall include the following, submitted simultaneously in both paper and electronic formats, except in the case of a Minor Plat or Amending Plat, the City Administrator in the development of the applications for such plats shall not require an applicant to produce information or materials that are not applicable to the Minor Plat or Amending Plat:

- (a) names and addresses of the subdivider(s), record owner(s), land planner, engineer and/or surveyor on a completed written application form that bears the original notarized signature(s) of the property owner(s) of the subject property;
- (b) proposed name of the subdivision;
- (c) location in relation to the rest of the City and boundaries of the proposed subdivision;
- (d) if the parcel includes a remainder tract and the applicant has not filed a Master Plat, information to aid the city in taking action on the plat application and which shows or describes the topography, drainage and existing, planned or needed improvements for development to include but is not limited to access and availability of adequate property that may be dedicated for this purpose;
- (e) payment of the applicable application fee set by the City Council, the engineering and other fees and costs as required in this Ordinance to include the provisions in subsection 30.1.2, and the costs of providing notice when required by this Ordinance; if the full amount of these costs cannot be determined at the time of application, the applicant shall submit the estimated amounts for the engineering and other fees and notice costs with the application and any unpaid balance must be paid prior to the submission of the plat for approval;
- (f) the appropriate number of full-size folded (24" x 36") prints of the plat (per the City's folding requirements, available at City Hall), as required by the City's current development review policies and requirements;
- (g) two 11"x 17" black-and-white reductions of the plat;
- (h) two copies of any applicable development agreement pertaining to the subject property (if any);
- (i) copy of soil test submitted to the county, if required by El Paso County;
- (j) a certificate or other satisfactory evidence from the El Paso County Central Appraisal District showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property. Documentation shall also be included that shows no delinquent assessments, fees, or other debts or obligations to the City and which are directly attributable to the subject property. One copy of the tax status certificate shall be submitted to the City in order for the application to be deemed complete;
- (k) a preliminary drainage study;
- (l) record or other documentation of approved variances needed for the project or plat;
- (m) any approved permits that are applicable to the plat application (see also, the remaining subsections under this section);
- (n) a written narrative describing how all portions of the application meet all requirements of this Ordinance and other ordinances of the city including, landscaping, lighting, parkland dedication and zoning, as pay be relevant;
- (o) if a replat or Amending Plat, two 11" x 17" copies of the plat which is sought to be replatted or amended; and
- (p) any other reasonable and applicable information and materials required by section 3.6 above, the City Engineer or City Administrator.

3.7.2 Additionally, each application must include an engineer's summary report which will serve as a brief summary of the project and the engineering plans and which describes, in as much detail as necessary, the following:

- (a) the overall nature and scope of the proposed development, including zoning;
- (b) the proposed use(s) and acreage of each proposed use;
- (c) minimum lot sizes, widths and depths, number of lots to be created;
- (d) special amenities or facilities that will be included in the development;
- (e) how the property will be served with required utilities and services;

- (f) how storm water drainage will be handled;
- (g) an itemization and description of any waivers from provisions of this Ordinance that will be sought.

3.7.3 If the proposed development will have access points onto a major thoroughfare, the application shall also include a letter from the appropriate entity acknowledging and approving proposed driveway locations and corresponding median openings and left turn lanes, if applicable.

3.7.4 Letters shall also be provided from each of the applicable utility service providers, including water and wastewater providers (the LVWD), and providers of gas, electricity, telephone, cable TV and solid waste, verifying their ability and willingness to provide an adequate level of service for the proposed development.

3.7.5 The San Elizario Independent School District shall be notified in writing to allow the District the opportunity to document any concerns regarding transportation issues or raise matters regarding efforts to obtain a future school site within any portion of the subject property, and proof of such notice shall be submitted to the City.

3.7.6 The ESD#2 shall be notified in writing to allow the District the opportunity to document any concerns regarding the provision of emergency services to the subject property, and proof of such notice shall be submitted to the City.

3.7.7 All plat drawings and other corresponding plans and drawings, including engineering plans and landscape and screening plans, shall be on sheets equal to 24" by 36" in size, and shall be drawn to a known engineering scale of not smaller than one hundred feet to the inch (1"=100') or a larger scale. In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100') scale, plats may be on multiple sheets or to another known engineering scale, as approved by the City Administrator, and in a format that will be acceptable for eventual filing at El Paso County.

3.8 PROOF OF LAND OWNERSHIP

3.8.1 The City requires proof of land ownership prior to approval of any plat application. Along with the application, the applicant shall provide written verification, to include a notarized statement or a power of attorney or other evidence satisfactory to the City Administrator, that he or she is the owner of record of the subject land parcel or parcels or is the property owner's authorized agent. The City Administrator shall have the authority to determine what document(s) the City will require to prove ownership, such as one of the following:

- (a) General warranty deed;
- (b) Special warranty deed;
- (c) Title policy; or
- (d) Some other documentation that is acceptable to the City Administrator.

3.8.2 If ownership cannot be conclusively established prior to the meeting date on which the plat application will be heard, the City shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new plat application, including the application fees, for the property at any time following such denial.

3.8.3 Two copies of the proof of land ownership document(s) shall be simultaneously submitted to the City in order for the application to be deemed complete.

3.9 DENIAL OR REJECTION OF A PLAT APPLICATION OR A PLAT

- 3.9.1 Payment of Fees. The City shall reject the application or deny a hearing and any approval if the applicant does not submit the information and fees required, to include but not be limited to application fees, engineering and consultant costs and notice costs where applicable.
- 3.9.2 Payment of Indebtedness. No person who owes delinquent taxes, delinquent paving assessments, delinquent fees, or any other delinquent debts or obligations to the City of San Elizario, and which are directly attributable to a piece of property, shall be allowed to receive approval for any plat, replat or other application under this Ordinance until the taxes, assessments, debts or obligations directly attributable to said property and owed by the property owner or a previous owner, shall have been first fully discharged by payment, or until an arrangement satisfactory to the City Administrator has been made for the payment of such debts or obligations. Provided however, this requirement shall not prohibit the conditional approval of a plat. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid at the time of submission for any application for approval under this Ordinance.
- 3.9.3 Misrepresentation of Facts. It shall be a violation of this Ordinance for any person to knowingly or willfully misrepresent, or fail to include, any information required by this Ordinance in any plat application, during any conference with a City official, during any public hearing or meeting of the P&Z, or City Council. Further, such a violation, as determined by the P&Z or the City Council, as applicable, shall constitute grounds for denial of the plat.
- 3.9.4 Incompleteness of Application. The processing of an application by any City official or employee prior to the time the application is determined to be complete shall not be binding on the City as the official acceptance of the application for filing, and any deficiencies in providing the adequate or necessary information to determine compliance with the standards of this Ordinance may result in the denial of the plat or other application. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Ordinance.
- 3.9.5 Failure to Comply with the Requirements of Subchapter A, Chapter 212 of the Texas Local Government Code.
- 3.9.6 Failure to comply or meet the required standards for a specific type of plat as set forth in this Ordinance and the following general standards for approval:
- (1) No basis for the denial or rejection of a plat application under Section 3.9 exists; and
 - (2) The plat conforms to applicable zoning, subdivision and any other applicable codes or ordinances of the City, unless specifically excepted by this Ordinance, and any applicable County regulations that are related to development of a land parcel.
- 3.9.7 Failure to comply with the requirements of this Ordinance or other ordinance of the City of San Elizario or the regulations of the County of El Paso that are related to development of a land parcel or required in connection with the plat.

3.10 CITY STAFF REVIEW

Upon official submission of a complete application for plat approval or other approval provided for under this Ordinance, the City shall commence technical review of the development proposal by forwarding a copy of the application and plat to City staff and contractors as designated by the Mayor that may include, but shall not be limited to, the City Administrator, City Engineer, City Attorney, and Building Official. It is the applicant's responsibility to submit two complete copies of any application (including all documents, application forms, plans, etc.) directly to the City in order for the application to be considered complete.

The assigned City staff and contractors shall review the plat and shall ascertain its compliance with these and other applicable City regulations. For plats whose reviewing authority includes the Planning and Zoning Commission, complete applications for the plat shall be placed on the agenda within thirty (30) days of the official filing date. The plat application as it exists on file with the City seven (7) calendar days before the P&Z meeting date shall be the application that is submitted to the P&Z for review and approval or disapproval.

The assigned City staff and contractors shall review all other applications under this Ordinance and shall ascertain its compliance with these and other applicable City regulations and timely process such applications in accordance with the provisions of this Ordinance, any administrative guidelines and state law.

3.11 REQUEST FOR AN EXTENSION

Before or at the time the plat has been scheduled on an agenda (or at any time prior), the applicable reviewing body will accept and review a written request for an extension by the applicant. The applicable reviewing body may approve an extension on the request of the applicant. If extended the application will be placed on the agenda of the governing body within the extension period. In addition, a written request for an extension may be submitted to the City no later than the 5th business day before the date of a scheduled meeting of the applicable reviewing body at which the consideration of the plat is not scheduled on the agenda to allow adequate time for the posting of an agenda item for the approval of the extension request by the applicable body.

3.12 NOTIFICATION

3.12.1 Personal. Publication and/or written notice of a public hearing when required by state law shall be issued by the City in the manner required by state law.

3.12.2 Website Notice. Within two (2) days after any application for a plat has been officially filed, the City will post a notice of the plat application on the City's website. The City Administrator may adopt a procedure for the placement of the notice and providing updated information to the public on the status of the application. This notice shall be done as a courtesy to the public and shall not affect the processing of the plat nor the validity of the City's actions regarding a plat.

3.13 ACTION BY PLANNING AND ZONING, CITY COUNCIL

3.13.1 P&Z Review. All subdivision plat applications, except Minor Plats and amended plats, shall be reviewed by the P&Z after an application is deemed filed. The P&Z shall review each plat application and shall take action to:

- (a) approve the plat; or
- (b) approve the plat subject to certain conditions, which in the case of a plat that depicts a remainder tract, may include requiring that additional or less land be included in the remainder tract to satisfy standards under this Ordinance; or
- (c) disapprove the plat, within thirty (30) days following the official filing date unless the applicant has submitted a written waiver of the 30-day review/approval time and the P&Z has voted to approve the extension request.

3.13.1.1 All plat applications that were disapproved by the Planning and Zoning Commission, shall be provided to the applicant with a written statement of the reasons for disapproval that

clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval.

3.13.1.2 If the applicant amends its filed plat application in response to the Planning and Zoning Commission's initial disapproval, the applicant may file its amended application with the City during normal business hours, Monday through Thursday of each week, excluding holidays, and in accordance with the pre-application conference certificate of completion. The City Council, by resolution, may further restrict the days and times on which an amended application may be submitted to the City. Once the amended application is determined to be in order, the Planning and Zoning Commission will then have up to fifteen (15) days to approve or disapprove the plat. The Planning and Zoning Commission may either: (1) approve plat if the response adequately addresses each reason for the disapproval; or (2) disapprove plat if the response does not adequately address each reason for disapproval or creates new reasons for a violation of a statute or city ordinance. Any disapproval shall include a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval. Any plat that is disapproved after the city has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

3.13.2 City Council Action on P&Z Approval. The City Council shall take action to approve, conditionally approve or disapprove the plat within thirty (30) days following the P&Z's action giving approval, unless the applicant has submitted a written waiver of the 30-day review/approval time and the City Council has voted to approve the extension request. The applicant may not make any revisions on a plat that has been given approval by the P&Z except in conformity with the recommendation of the P&Z or with the consent of the City Administrator, or when the revision is a correction or revision of the type listed in Section 4.4.7.

3.13.2.1 All plat applications that were disapproved by the City Council, shall be provided to the applicant with a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval.

3.13.2.2 If the applicant amends its filed plat application in response to the City Council's initial disapproval, the applicant may file its amended application with the City during normal business hours on a Tuesday or Wednesday excluding holidays of a week such that the date of filing is 13 or 14 days prior to the second Tuesday or the fourth Tuesday of the month, unless such meeting date would be a holiday, in accordance with the pre-application conference certificate of completion. The City Council, by resolution, may further restrict or change the days and times on which an amended application may be submitted to the City. Once the amended application is determined to be in order, the City Council will then have up to fifteen (15) days to approve or disapprove the plat. The City Council may either: (1) approve plat if the response adequately addresses each reason for the disapproval; or (2) disapprove plat if the response does not adequately address each reason for disapproval or creates new reasons for a violation of a statute or city ordinance. Any disapproval shall include a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval. Any plat that is disapproved after the city has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

- 3.13.3 **Submission of Written Response and Action.** If the P&Z votes to conditionally approve or disapprove a plat, the P&Z shall state such conditions or disapproval and the reasons therefore as provided above. Upon the conditional approval or disapproval of a plat, the applicant shall be entitled to submit a written response to the applicable body in accordance with the provisions of Section 212.0093 of the Texas Local Government Code and the processes relating to such written response shall be followed as provided by statute.
- 3.13.4 **City Council Review of P&Z Disapproval.** If the P&Z disapproves a plat after the applicant has filed his or her written response under Section 212.0095 of the Local Government Code, the City Council may consider the application as an appeal of the disapproval by the P&Z at a public meeting no later than 30 days after the date upon which the disapproval was issued. If the City Council considers the application pursuant to this subsection, the City Council will then take action on the application as provided above to approve, conditionally approve or disapprove of the plat.
- 3.13.5 **Issuance of Certificate of plat approval or disapproval.** Upon the approval of a plat, a conditional approval of a plat or the disapproval of a plat, the P&Z or the City Council, as applicable shall issue the appropriate certificate as required by Sections 212.009(c) and (d), and 212.0091 of the Texas Local Government Code and by this Ordinance.
- 3.13.6 **Issuance of Certification Regarding Compliance with City Platting Requirements.** The City Council shall be the responsible entity for the issuance of a certification regarding compliance with plat requirements pursuant to Section 212.0115 of the Texas Local Government Code in a situation when this Ordinance does not require a plat to be filed. No P&Z review or action regarding such a certification is required.

3.14 INSTALLATION EXPENSES

All expenses for the installation of utilities, water, sewer extensions, streetlights, signs, public streets, and all other installation expenses associated with the subdivision or confirming plat, shall be borne by the developer. Before the plat is filed of record as required in this Ordinance, the applicant shall file with the City a corporate surety bond or letter of credit in favor of the City, or cash escrow agreement in an amount equal to the cost of the installation expenses to guarantee performance, completion, and two-year maintenance of all such installations. (See Sample Forms contained in *Appendix A, Letter of Credit*, and *Appendix B, Performance Bond* to this Ordinance.) Such bond, letter of credit, or cash escrow shall be conditioned upon the applicant's compliance with this Ordinance and other ordinances of the City, and shall secure and may be used for the payment of any and all damages to persons or property which damages arise from or are caused by any act or conduct of or authorized by the applicant. No work may commence on any such installation until such performance bond, letter of credit, or cash escrow has been posted and approved by the City.

3.15 MASTER PLAT PROCEDURES

- 3.15.1 **Purpose and Effect.** The purpose of a Master Plat shall be to delineate the sequence and timing of development within a proposed subdivision, where the tract to be developed will be developed in phases or is part of a larger parcel of land owned by the applicant, in order to determine compliance with the comprehensive plan and the availability and capacity of public improvements needed to serve the development, or is required in the instance of a commercial development which includes the proposed use of one or more panhandle lots. Approval of a Master Plat authorizes the applicant to submit an application for approval of a Preliminary Plat.

- 3.15.2 Applicability. A Master Plat shall be required for any division of land where proposed development of the tract is to occur in phases, for commercial development which includes the proposed use of one or more panhandle lots, and for land inside city limits where the land is located within an existing or proposed PD - Planned Development District. A Master Plat may not be accepted for filing and any application that conflicts with the limitations of this section shall be deemed incomplete, if the land subject to the Master Plat exceeds 250 acres for single-family residential developments, or 100 acres for other types of developments other than a commercial development which includes the proposed use of one or more panhandle lots. A phasing schedule for the Master Plat shall not be for more than five years. The limitations on acreage and phasing schedule do not apply where the proposed acreage or phasing schedule for the Master Plat is in conformity with an approved planned development. If the land subject to the Master Plat is part of a larger parcel, the remaining land shall be shown as a remainder tract but shall not be included within the Master Plat.
- 3.15.3 Remainder tract. A remainder tract is that portion of a larger parcel that is not included within the boundaries of a subdivision plat. Remainder tracts shall not be considered lots or tracts of the subdivision. Approval of a subdivision plat shall not constitute approval of development on a remainder tract. The City may require that information be submitted for a remainder tract with a Master Plat application solely for the purpose of determining whether the planned public facilities and improvements proposed to serve the Master Plat will be adequate. Information concerning remainder tracts may be considered in formulating conditions to approval of the Master Plat application. Based upon such information, the City may require that additional or less land be included in the subdivision plat in order to satisfy the standards applicable to the plat application. If the Master Plat is approved, a plat application for a remainder tract shall not be accepted for filing and any application that conflicts with the limitations of this section shall be deemed incomplete until a Final Plat has been approved for the first phase of the Master Plat.
- 3.15.4 Application. An application for a Master Plat shall be submitted to the City Administrator, together with the required number of copies of the Master Plat drawn at a scale of not more than 400 feet to the inch. If more detailed contour information is not available, the USGS map contours may be used for concept planning purposes in most cases. The application for the Master Plat shall include the following information, as applicable to the type of development:
- (1) Names and addresses of the subdividers, record owner, land planner, engineer and/or surveyor.
 - (2) Proposed name of the subdivision.
 - (3) Location in relation to the rest of the City and boundaries of proposed subdivision.
 - (4) A schematic layout of the entire tract to be subdivided, any remainder tracts and its relationship to adjacent property and existing adjoining developments.
 - (5) Proposed major categories of land use showing existing and proposed zoning.
 - (6) Proposed number of dwelling units and population densities.
 - (7) Proposed and existing arterials and collector streets to serve the land to be platted consistent with the thoroughfare plan or proposed amendments.
 - (8) Location of proposed sites for parks, schools and other public uses as consistent with those shown in the comprehensive plan.
 - (9) Significant natural drainage features including drainage courses and wooded areas, as delineated on USGS topographic maps or on any other topographic maps showing equivalent information.
 - (10) Significant manmade features to include roads, buildings, utilities, arroyos, canals, laterals or other physical structures as shown on USGS topographic maps, utility company records and city records when such features affect the plan.
 - (11) Proposed dedication of land or rights of way for and construction of public improvements, whether on site or off site, intended to serve each proposed phase of the subdivision.
 - (12) Designation of each phase of development within the subdivision, the order of development, and a schedule for the development of each phase of the Master Plat.

- (13) A detailed statement of how the proposed subdivision will be served by water, wastewater, roadway and drainage facilities that have adequate capacity to serve the development.
- (14) The information required under Section 14.3 for one or more proposed panhandle lots, when applicable.

3.15.5 Procedures.

- (1) P&Z Action. After review of the Master Plat application by the City Administrator and the City Engineer, the application shall be scheduled for consideration by the P&Z. The board shall decide whether to approve, approve with conditions or deny the Master Plat based on the criteria for approval listed herein.
- (2) City Council Action. Following decision by the P&Z, the City Council shall determine whether to approve, approve with conditions or deny the Master Plat, taking into consideration the action taken by the board, and the criteria for approval.
- (3) Conditions. The P&Z or the council may impose such conditions to the approval of the Master Plat as are reasonably necessary to assure compliance with the criteria for approval. Such conditions may address, but are not limited to, matters involving conformity with the City's zoning regulations, the availability and capacity of public improvements, or the phasing of development. In addition to other conditions, approval of the Master Plat may be conditioned on exclusion of land from the Master Plat or adjustments in the proposed sequence or timing in the proposed phases of the development.

3.15.6 Criteria for Approval. The following criteria shall be used to determine whether a Master Plat shall be approved, approved with conditions, or denied:

- (1) The Master Plat is consistent with all existing or proposed zoning requirements for the property, including any development plans for a PD Planned Development District, and standards of any applicable overlay district, and any approved development or annexation agreements.
- (2) The proposed provision and configuration of roads, water, wastewater, drainage, and park facilities generally conforms to the City's master plans or design standards for such facilities.
- (3) The water, wastewater, roadway and drainage systems serving the development have adequate capacity to accommodate the demands for services created by each phase of the development by the time of Final Plat approval.
- (4) The schedule of development is feasible and prudent and assures that the proposed development will progress to completion within the time limits proposed.
- (5) The location, size and sequence of the phases of development proposed assure orderly and efficient development of the land subject to the plat. Each phase of the development shall contain the minimum number of dwelling units or quantity of nonresidential use to assure that such standard is met.
- (6) Where the proposed development is located in whole in part in the extraterritorial jurisdiction of the City and is subject to an interlocal agreement under Tex. Loc. Gov't Code Ch. 242, the proposed Master Plat meets any county standards to be applied pursuant to the agreement.

3.15.7 Expiration of Master Plat. An approved Master Plat shall expire if a complete application for a Preliminary Plat for the first phase of the development has not been filed within 183 days of the date of approval of the Master Plat by the City Council, or within the time provided by a phasing schedule approved for the Master Plat. If the Preliminary Plat is subsequently denied, the Master Plat shall thereupon expire. Within 183 days of approval of the Preliminary Plat for the first phase of the development, or within such other period as may be provided in an approved phasing schedule, a complete application for a Preliminary Plat must be filed for the next phase of the development, continuing with each successive phase until Preliminary Plats have been approved for all the land subject to the Master Plat in accordance with this section or an approved phasing schedule. If the subdivider fails to submit a complete application for a Preliminary Plat for any

phase of the development within the prescribed period, or if the Preliminary Plat subsequently is denied for such phase, the Master Plat shall expire for that phase and for all other phases for which a Preliminary Plat or Final Plat has not been approved or no longer remains in effect. If an approved Preliminary Plat subsequently expires, the Master Plat for that phase shall expire, as well as for all other phases for which a Preliminary Plat or Final Plat has not been approved or is not pending for approval, or has lapsed subsequent to approval.

3.16 LAPSE OF PLAT APPROVAL

Unless extended or reinstated pursuant to the procedures in this section, an approved plat shall expire after the expiration of time provided in this Ordinance and shall thereafter be deemed null and void. Upon expiration, or upon denial of a timely submitted request for extension or reinstatement of plat approval, a new plat application shall be submitted, subject to requirements in effect at the time the application is filed with the City.

3.16.1 Extension and Reinstatement Procedure. Prior to the lapse of approval for a plat, the developer may make application to the City to extend the plat approval. Such application shall be considered at a public meeting before the P&Z which shall recommend approval or denial of the application. The application shall then be considered by the City Council at its next regularly scheduled meeting. If no application for extension of plat approval is submitted by the property owner prior to the expiration date, then the plat shall be deemed to have expired and shall become null and void.

In considering whether to grant a request for extension, the P&Z, and ultimately City Council, shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations would apply to the plat at that point in time. The City Council shall either extend the plat with or without conditions or shall deny the request, in which instance the originally approved plat shall lapse upon expiration and shall become null and void. The property owner must thereafter submit a new plat application for approval and shall conform to the subdivision regulations then in effect.

The City Council may extend the period of approval of a plat subject to additional conditions based upon newly enacted City regulations or state legislation, or as necessary to ensure compliance with the original conditions of approval or to protect the public health, safety and welfare. The City Council may also specify a shorter time for the extension of the plat approval period than the time granted for the original approval period.

3.17 LAPSE OF ENGINEERING PLAN APPROVAL

The approved engineering plans shall be valid for a period of 365 days following approval by the City Engineer. The City Council may, upon written request by the applicant and approval by P&Z, grant an extension of up to an additional 365 days, after which the engineering plans shall be subject to re-approval by the City Engineer if construction has not been completed.

SECTION 4. PLAT APPLICATION PROCEDURES

4.1 PROGRESS BENCHMARKS

For the approval of the below-listed types of plats and plans, the applicant must have completed a City-required “progress benchmark” as set forth below. If this is not accomplished, then the approved plat at that

benchmark shall be deemed to have expired and shall become null and void, and a new plat application, along with all other required paperwork, plans, fees, etc., must be submitted, reviewed and approved by the City in order to proceed with development of the property. The series of progress benchmarks for a project, pursuant to the provisions of this section, are as follows:

<u>Approved Plat or Plan</u>	➔	<u>Progress Benchmark</u>
Master Plat	➔	Submission and approval of a Master Plat, if required by this Ordinance.
Preliminary Plat	➔	The following shall occur within the one hundred and eighty-three (183) days following Preliminary Plat approval: 1) City Engineer's approval of engineering plans for all proposed public improvements; and 2) payment of all applicable fees that are traditionally collected prior to release for site construction. In addition to the above, an application for approval of the Final Plat shall be submitted to the City within 183 days following approval of the Preliminary Plat in order to avoid lapse of the approved Preliminary Plat, unless such is extended or reinstated.
Final Plat	➔	An approved Final Plat shall expire 30 days from the date of approval by the council if the subdivider has failed to submit a complete set of documents for recording the plat within such period.

4.2 CONCEPT PLAN

4.2.1 Purpose. A concept plan provides the opportunity for the P&Z, City Council, and general public to preview proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; conformance to the Comprehensive Plan, Future Land Use Plan, Transportation Plan, Parks and Open Space Plan, water and sewer master plans, and other applicable plans of the City; the Zoning Ordinance; the EPMTA Zoning Regulations, and the property's relationship to adjoining subdivisions or properties. Review of a concept plan also assists the City in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community. A developer may request a City staff review of a concept plan by scheduling a meeting with the City and paying the required fee.

4.2.2 Submission Requirements. Submission of a concept plan is voluntary and may be particularly helpful as part of the pre-application process the following circumstances:

- (a) In conjunction with an application for a major subdivision plat for a property that is intended for development; or
- (b) In conjunction with any project where a road is to be established or realigned.

4.2.3 Extent of Area in a Concept Plan. When the overall development project is to be developed in phases, the concept plan area should include the entire property from which the phases are being subdivided and an approximate development schedule. Where significant natural or man-made features, to include thoroughfares or creeks, make inclusion of the entire property in the concept plan impractical, the concept plan may include a smaller study area. Boundaries to include major thoroughfares, whether existing or proposed, creeks and major drainage ways, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.

4.2.4. No Vested Rights. No vested rights shall accrue from any discussion, advice or approval that occurs from or due to the submission of a voluntary concept plan.

4.2.5 Concept Plan Conference. A Concept Plan may be reviewed and discussed to the extent necessary at any point in the process. However, the preferred discussion time for a voluntary Concept Plan is during the pre-application conference.

4.3 ENGINEERING AND SUBMISSION REQUIREMENTS FOR PLATS

4.3.1 Information Required. Except for Amending Plats, the proposed plat and associated engineering plans, to include all applicable provisions of this Ordinance referencing or relating to construction plans, shall show the following information:

- (a) A vicinity, or location, map that shows the location of the proposed plat within the City (or within its ETJ) and in relationship to existing roadways;
- (b) Boundary lines, abstract/survey lines, corporate and other jurisdictional boundaries, existing or proposed highways and streets, including right-of-way widths, bearings and distances sufficient to locate the exact area proposed for the subdivision, and all survey monuments including any required concrete monuments per the City Engineer; the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of each lot (curve and line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract or survey corner or existing subdivision corner shall be shown;
- (c) If the parcel includes a remainder tract and the applicant has not filed a Master Plat, the remainder tract shall be identified along with the location of the boundary lines, including right-of-way widths, bearings and distances sufficient to locate the exact area proposed for the remainder tract; the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of the remainder tract; accurate reference ties via courses and distances to at least one recognized abstract or survey corner or existing subdivision corner shall be shown;
- (d) The name, location and recording information of all adjacent subdivisions or property owners of adjacent unplatted property, including those located on the other sides of roads or creeks, shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys, building setbacks, lot and block numbering, easements, and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines, the names of owners of record, and the recording information;
- (e) The location, widths and names of all streets, alleys and easements; it shall be the applicant's responsibility to coordinate with appropriate utility entities, the LVWD and the ESD#2, for placement of necessary utility easements and for location of all streets and median openings on highways or arterial roadways, existing or proposed, within the subdivision limits and adjacent to the subdivision; a list of proposed street names shall be submitted in the form of a letter or memo along with the application form for all new street names (street name approval is required at the time the Preliminary Plat is approved);
- (f) The location of all existing property lines, existing lot and block numbers and date recorded, easements of record with recording information, buildings, existing sewer or water mains (can be shown on a separate sheet), gas mains or other underground structures, or other existing features within the area proposed for subdivision;
- (g) Proposed arrangement and square footage of lots, including lot and block numbers, and proposed use of same; for nonresidential uses, the location and size of buildings, existing and proposed (this information may be provided on a separate sheet, to include proving it in a concept plan or the final site plan; refer to the City's Zoning Ordinance or the EPMTA Zoning Regulations);

- (h) A title block within the lower right-hand corner of the plat and engineering plans which shows the title or name under which the proposed subdivision is to be recorded; the name, address and phone number of the property owner(s); the name, address and phone number of the licensed engineer or registered professional land surveyor who prepared the plat/plans; the scale of the plat/plans; the date the plat/plan was prepared; and the location of the property according to the abstract or survey records of El Paso County, Texas; the subdivision name shall not duplicate or closely phonetically replicate, the name of any other platted subdivision in San Elizario its ETJ, or other surrounding communities in El Paso County, but phasing identification is allowed to be similar to previous phases of that particular development; it is the property owner's responsibility to check the plat records of El Paso County to ensure that the proposed subdivision name will not duplicate or sound similar to a subdivision name already in existence, for which the City may, at its discretion, require a different subdivision name if there is potential for confusion by public safety officials or the general public;
- (i) Sites, if any, to be reserved or dedicated for parks, schools, playgrounds, other public uses or for private facilities or amenities;
- (j) Scale, including a graphic scale, date, north arrow oriented to the top or left side of the sheet, and other pertinent informational data;
- (k) Contours with intervals of two feet (2') or less shown for the area, with all elevations on the contour map referenced to sea level datum; and the limits of any portion of the 100-year floodplain (pursuant to the flood study, if required by the City Engineer) that may be within or adjacent to (*i.e.*, within 100 feet of) the property; final monumentation of the floodplain shall occur, and shall be shown, on the Final Plat prior to approval and filing at the County; if no floodplain is present, then a note stating this shall be shown on the plat;
- (l) Areas contributing drainage to the proposed subdivision shall be shown in the engineering plans; locations proposed for drainage discharge from the site shall be shown by directional arrows;
- (m) All physical features of the property to be subdivided shall be shown, including
 - (1) the location and size of all watercourses; and
 - (2) 100-year floodplain according to Federal Emergency Management Agency (FEMA) information; and
 - (3) U.S. Army Corps of Engineers flowage easement requirements; and
 - (4) All critical environmental features (CEFs) to include karsts, springs, sinkholes, caves, etc., to be located and documentation to be signed and certified by a geologist. All CEF to have a minimum setback of 75'. All designated wetlands to be certified as such by an accredited wetland biologist relying on the presence of wetlands plant species. Applicant to include a slope map identifying the breakdown of all lands in categories from 0% to 15 slope, 15 to 30 slope, and over 30% slope; and
 - (5) Ravines and arroyos; and
 - (6) Bridges; and
 - (7) Culverts, canals and laterals; and
 - (8) Existing structures; and
 - (9) Drainage area in acres or area draining into subdivisions (only in the engineering plans); and
 - (10) Outline of major wooded areas or the location of major or important individual trees with trunk diameters exceeding twelve inches (12") measured four feet (4') above the ground, and other features pertinent to subdivision; is defined in the City's Landscape Ordinance.
- (n) Engineering plans of water and sewer lines and other infrastructure, including sizes to be constructed in the subdivision; the proposed connections to distribution mains shall be indicated;
- (o) Proposed phasing of the development: where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the Preliminary Plat, shall provide a schedule of development, the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The City Engineer shall determine whether the proposed streets and street improvements are adequate pursuant to

- standards herein established, and may require that a traffic impact analysis be submitted for the entire project or for such phases as the City Engineer determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;
- (p) All Plats shall be submitted in a legible format that complies with El Paso County requirements for the filing of plats, and shall be drawn on a good grade blue line or black line paper;
 - (q) Existing or proposed zoning of the subject property and all adjacent properties;
 - (r) Construction Traffic Plan showing proposed routes for construction vehicle traffic and points of ingress and egress of such vehicles during construction; this shall be sealed by a registered engineer;
 - (s) If any amount of surface water is to be used by the subject property, the Applicant must provide documentation to the City establishing that the Applicant has notified the appropriate governmental entities of the Applicant's plans for the project; and(t) Certificates and other language shall be included on the plat, pursuant to the following:
 - (1) A statement signed by the property owner(s) and acknowledged before a Notary Public that the subdivided area is legally owned by the applicant.
 - (2) An accurate legal description by bearings and distances, such as by metes and bounds, including necessary curve and line data, accurate to the nearest one hundredth of a foot, for all boundary, block and lot lines, with descriptions correlated to a permanent survey monument.
 - (3) The registered professional land surveyor's certificate, with a place for his or her signature and notarization of his or her signature.
 - (4) A place for plat approval signature of the Mayor (or Mayor Pro Tem, in the Mayor's absence) of the City Council, a place for the City Secretary or Clerk to attest such signature, and the approval dates by City Council.
 - (5) Appendices to this Ordinance contain certificates and languages to be used on the plat in substantial form to accommodate the above requirements, *see* Appendix C.
 - (6) If the parcel includes a remainder tract and the applicant has not filed a Master Plat, the following language shall be included in a plat note: "The remainder tract depicted herein is shown only for informational purposes. The approval of this plat did not constitute approval of development on the remainder tract. Prior to development, the remainder tract must be platted in accordance with the Subdivision Ordinance of the City of San Elizario, Texas."

4.3.2 Engineering Plans (to include all applicable provisions regarding construction plans in this Ordinance). Along with any application, except for an application for an Amending Plat, the applicant shall submit the required number of sets of the complete engineering plans for all streets, alleys (if any), storm sewers and drainage structures, water and sanitary sewer facilities, screening and retaining walls, landscaping and irrigation, and any other required public improvements for the area covered by the Plat. If the application is for a Final Plat, the engineering plans submitted with the Preliminary Plat application will be updated as necessary. The engineering plans shall also contain any plans deemed necessary to show or document compliance with the City's ordinances pertaining to nonpoint source pollution control, and any other applicable codes and ordinances of the City that are related to development of a land parcel. Cost estimates for the completion of all public improvements shall also be submitted with the engineering plans for review and approval, if necessary, by the City Engineer. Upon request, the City Engineer may not require the inclusion of one or more of the criteria set forth in subsection 4.3.2.1 of this Ordinance in the engineering plans for a Minor Plat, when in the sole opinion of the City Engineer, the Minor Plat does not impact those particular criteria.

4.3.2.1 For the purposes of this Ordinance, complete sets of engineering plans shall include the following plans or sheets as well as any additional plans or sheets deemed necessary and/or as requested by the City Engineer:

- (a) Cover or title sheet with list of all plans
- (b) Plat
- (c) Final site plan (for nonresidential and multifamily projects only - see the Zoning Ordinance or the EPMTHA Zoning Regulations for specific requirements and approval procedures)
- (d) Existing conditions plan (unless these items are shown on the Plat itself), which shows existing topography, vegetation, tree inventory of those trees with a diameter of eight inches (8") or greater (when measured four feet (4') above the natural grade) located within twenty feet (20') of intended rights-of-way (streets and utilities), existing natural and man-made physical features, etc.
- (e) Existing tree and vegetation protection plan
- (f) Grading, erosion control, and water quality control plans (including a SWPPP)
- (g) Paving and storm drainage plans
- (h) Utility plans for water, sanitary sewer, etc.
- (i) Traffic-control plans (if necessary)
- (j) Screening and retaining wall plans
- (k) Landscaping and irrigation plans

4.3.2.2 The applicant shall have these plans prepared by their own professional engineer(s), subject to approval of the plans by the City Engineer. The City Engineer shall review, or cause to be reviewed, the plans and specifications and if approved, shall mark them "approved" and shall return one set to the applicant, and at least two (2) sets shall be retained in the City's files. If not approved, then one set shall be marked with the objections noted on the plans themselves and/or in memo format, a copy of which shall also be sent to the City, and returned to the applicant for correction, whereupon the applicant's engineer shall correct the plans as requested and shall resubmit them back to the City Engineer for re-review. Once the engineering plans are approved by the City Engineer, as documented by an approval letter addressed to the applicant and copied to the City, the property owner shall provide additional sets of the approved plans to the City, as specified by the City Engineer, for use during construction. A full set of the City-approved and stamped engineering plans must be available for inspection on the job site at all times.

4.3.2.3 Engineering plans shall be prepared by or under the direct supervision of a professional engineer licensed in the State of Texas as required by State law governing such professions and shall be in accordance with this Ordinance and the City's Technical Construction Standards and Specifications (TCSS). All engineering plans submitted for City review shall be dated and shall bear the responsible engineer's registration number, and the designation of "professional engineer" or "P.E.", and the engineer's seal. Engineering plans shall be approved by the City Engineer only when such plans meet all of the requirements of this Ordinance and the TCSS.

4.3.2.4 Engineering plans showing paving and design details of streets, alleys, culverts, canals, laterals, bridges, storm sewers, water mains, sanitary sewers, sidewalks, screening and retaining walls, landscape and irrigation plans (if appropriate), and other engineering details of the proposed subdivision at a scale of one inch equals 20 or 40 feet (1" = 20' or 40') horizontally and one inch equals 2, 5, or 10 feet (1" = 2', 5' or 10') vertically shall be submitted to the City Engineer along with a copy of the Plat of the subdivision. The number of copies as specified by the City shall be submitted along with the Plat submittal.

4.3.2.5 As part of the engineering plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage

plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.

4.3.2.6 A Landscape Architect may prepare the Landscaping and Irrigation plans. Such plans must be in accordance with the City's Landscape Ordinance.

4.3.2.7 After approval of a Final Plat or Replat by the City Council, approval of the engineering plans and specifications by the City Engineer, and following procurement of all applicable permits from other appropriate agencies (to include TxDOT, TCEQ, U.S. Army Corps of Engineers, FEMA, and/or El Paso County, and USFWS), the applicant shall cause a contractor(s) to install or construct the public improvements in accordance with the approved plans and the City's standard specifications, and at the applicant's expense. The applicant shall employ engineers, surveyors or other professionals as necessary to design, stake, supervise, perform and complete the construction of such improvements, and shall cause his or her contractor to construct the said improvements in accordance with this Ordinance and with the City's, and any other applicable agency design standards. If the project will require a FEMA map revision, then the proposed plans shall also be reviewed for compliance with the City's Flood Damage Prevention Ordinance, as amended, prior to approval of the Preliminary Plat, Replat, or Minor Plat and prior to any construction activities including but not limited to grading, clearing, grubbing, brush removal, etc. on the site.

4.4 PRELIMINARY PLAT

4.4.1 General. Approval of a Preliminary Plat by the City Council shall be deemed general approval for the street and lot layout shown on the Preliminary Plat (approval for construction of the necessary streets, water lines, sewer lines, and other required improvements and utilities shall be authorized only through the City Engineer's approval of the engineering plans), and to the preparation of the final or record plat when construction of all required public improvements is nearing completion (or when appropriate surety for completion is provided to the City).

4.4.2 Zoning Change or Annexation Request. If a zoning change is required, or if the City desires annexation of the parcel to be platted, the developer shall file an application for a zoning change or petition for annexation prior to filing the Preliminary Plat application.

4.4.3 Standards for Approval. No Preliminary Plat shall be approved or recommended for approval by the P&Z, or approved by the City Council, unless the following standards have been met:

- (1) The plat substantially conforms with other studies and plans, as applicable;
- (2) no basis for the denial or rejection of a plat application under Section 3.9 or under State Law exists;
- (3) The engineering plan requirements to include those in subsection 4.3 have been met and layouts for required public improvements and utilities have been submitted by the applicant for approval by the City Engineer. Whether specifically stated or not, Preliminary Plat approval shall always be subject to any additions or alterations to the engineering plans as deemed necessary by the City Engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision;
- (4) The applicant shall provide copies of letters from local utility companies, including water and wastewater providers (the LVWD), stating that each utility company or entity has reviewed the Preliminary Plat and stating any requirements, including easements, it may have; and
- (5) The plat conforms to applicable zoning and other City regulations.
 - (5-1) Provided however, notwithstanding contrary provisions in the Zoning Ordinance or the EPMHA Zoning Regulations, a plat that subdivides or includes the subdivision of one or

more legally recorded lots that were not previously platted which contain more than one residential dwelling may be subdivided such that each dwelling may be placed on a separate new lot provided that each such new lot has a minimum lot square footage of 4,000 square feet, a minimum lot width of 40 feet, a minimum lot depth of 80 feet, a minimum front and rear yard of 10 feet, a minimum side yard of such distance that is greater than 5 feet and in conformity with City building regulations and a minimum side yard adjacent to a street of 10 feet. Provided, however, if an existing dwelling currently has a front yard that is less than 10 feet but more than 5 feet and such distance and in conformity with City building regulations, such dwelling shall be allowed to maintain the existing front yard, which distance shall be recorded on the plat, but no further encroachments shall be allowed into the front yard.

(5-2) Each of the properties allowed to be subdivided under (5-1) of this subsection shall contain a single-family dwelling that existed on July 25, 2017 and the plat shall provide for panhandle lots, a private street, or a shared driveway(s) if the minimum lot width cannot be met for every lot. A shared driveway(s) shall be designated on the plat and shall comply with the standards set forth under the definition for *Shared Driveway* in Section 2 of this Ordinance.

4.4.4 Approval or Denial. The P&Z shall decide, as provided in Section 3.13 of this Ordinance, whether to recommend approval or approval with conditions, or to deny the Preliminary Plat within thirty days of the official filing date. The action of the commission shall be entered in the minutes of the commission and the processes provided in Section 3.13 shall be followed.

4.4.4.1 All changes or conditions required by the P&Z as part of the Preliminary Plat approval shall be made a part of the record and any Final Plat shall meet those required changes or conditions.

4.4.4.2 Except as may otherwise be allowed by the City Administrator, if a revised Preliminary Plat is to be submitted following P&Z action, it shall be submitted to the City Administrator five business days prior to the submission of the plat to the City Council.

4.4.5 City Council Action on P&Z Approval. Following the recommendation of approval or conditional approval by the P&Z, the City Council will take action on the Preliminary Plat in accordance with Section 3.13 and apply the same standards of review, determination, and action as set forth above for the P&Z.

4.4.5 Effect of Approval. Approval of a Preliminary Plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval, and upon construction of all required improvements (or submission of the proper assurances for construction of same), to submit an application for Final Plat approval. 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, water or wastewater services, parks, open space, drainage ways, or other such land and improvements.

4.4.7 Revisions to Approved Preliminary Plat. It is generally recognized that minor revisions to the Preliminary Plat may be needed before the Final Plat application can be filed with the City. Such minor revisions as slight enlargement or shifting of easements or lot lines, Unit lines, addition of private or franchise utility easements, correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the Final Plat without having to reapprove the Preliminary Plat. Determination of whether or not revisions are “minor” in nature is subject to the judgment of the City Administrator in consultation with the City Engineer. Major revisions, such as obvious reconfiguration of lot lines, unit lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public

improvement (including corresponding easement), shall necessitate resubmission and reapproval of the plat as a “revised Preliminary Plat” unless otherwise approved by the City. The procedures for such reapproval shall be the same as for a Preliminary Plat, and such reapproval may constitute a new project thus necessitating submission of a new application form, payment of new fees, compliance with amendments to this Ordinance which occurred since original Preliminary Plat approval, and other requirements.

4.5 FINAL PLAT

4.5.1 Substantial Compliance with Preliminary Plat. The Final Plat shall be in accordance with the Preliminary Plat or revised Preliminary Plat, as approved, and shall incorporate all applicable conditions, changes, directions and additions imposed by the P&Z and City Council upon the Preliminary Plat. The Final Plat shall not be submitted prior to approval of the Preliminary Plat; provided however, the City Administrator may allow the simultaneous submission of a Preliminary Plat and a Final Plat when the development does not contain any streets or other public dedications, or the construction of any public facilities.

4.5.2 Incomplete Application. Final Plat applications which do not include the required data, completed application form, application fee, the required number of copies of the plat and record drawings, a “Letter of Satisfactory Completion” of the public improvements from the City, and other required information, including documentation that all required public improvements have been constructed and installed in accordance with City standards or the submission of the proper assurances or escrow funds for the completion of the improvements, letters from utility companies including water and wastewater providers (the LVWD) verifying their easements, will be considered incomplete, shall not be accepted for submission by the City, and shall not be considered by the City Administrator or scheduled on a P&Z or City Council agenda until the proper information (completed application) is provided to City staff. The same process for deeming a plat application to be officially filed as provided in Section 3.6 of this Ordinance shall apply, as applicable, for the determination of the official filing date of an application for a Final Plat.

4.5.3 Approval or Denial. The P&Z shall decide, as provided in Section 3.13 of this Ordinance, whether to recommend approval or approval with conditions, or to deny the Final Plat within thirty (30) days from the official filing date. The action of the commission shall be entered in the minutes of the commission and the processes provided in Section 3.13 shall be followed.

4.5.4 Information for Final Plat.

4.5.4.1 All information that is required for a Preliminary Plat; and except that physical features of or on the land (to include topography, buildings, utility structures, water bodies and tree cover) shall not be shown on the Final Plat. In addition to these items, the Final Plat shall also provide a place for the County Clerk of El Paso County to stamp the date and location where the plat will be filed (“Volume or Cabinet _____, Page or Slide _____”) in the lower right-hand corner of all sheets of the plat drawing near the title block.

4.5.4.2 All aspects of the Final Plat shall conform to the standards of El Paso County for plats with respect to clarity, sheet size, lettering size and reproducibility, and the County’s formatting requirements for same shall control if different from this Ordinance. It is the applicant’s responsibility to be familiar with the County’s standards for filing plats and to comply with same.

4.5.5 Standards for Approval. No Final Plat shall be approved or recommended for approval unless the following standards have been met:

- (a) No basis for the denial or rejection of a plat application under Section 3.9 exists;
- (b) The plat substantially complies with the approved Preliminary Plat or revised Preliminary Plat and other studies and plans, as applicable;
- (c) The construction and installation of required public improvements and utilities have been completed and the improvements have been accepted by the City as conforming to the City's regulations and design standards or the proper assurances for construction of the improvements have been submitted and approved by the City; and
- (d) The plat conforms to applicable zoning, subdivision and any other applicable codes or ordinances of the City and any applicable County regulations that are related to development of a land parcel.
 - (d-1) Provided however, notwithstanding contrary provisions in the Zoning Ordinance or the EPMHA Zoning Regulations, a plat that subdivides or includes the subdivision of one or more legally recorded lots that were not previously platted which contain more than one residential dwelling may be subdivided such that each dwelling may be placed on a separate new lot provided that each such new lot has a minimum lot square footage of 4,000 square feet, a minimum lot width of 40 feet, a minimum lot depth of 80 feet, a minimum front and rear yard of 10 feet, a minimum side yard of such distance that is greater than 5 feet and in conformity with City building regulations and a minimum side yard adjacent to a street of 10 feet. Provided, however, if an existing dwelling currently has a front yard that is less than 10 feet but more than 5 feet and such distance and in conformity with City building regulations, such dwelling shall be allowed to maintain the existing front yard, which distance shall be recorded on the plat, but no further encroachments shall be allowed into the front yard.
 - (d-2) Each of the properties allowed to be subdivided under (d-1) of this subsection shall contain a single-family dwelling that existed on July 25, 2017 and the plat shall provide for panhandle lots, a private street, or a shared driveway(s) if the minimum lot width cannot be met for every lot. A shared driveway(s) shall be designated on the plat and shall comply with the standards set forth under the definition for *Shared Driveway* in Section 2 of this Ordinance.

4.5.6 Approval or Denial.

4.5.6.1 City Council Action on P&Z Approval. Following the recommendation of approval or conditional approval by the P&Z, the City Council will take action on the Final Plat in accordance with Section 3.13 and apply the same standards of review, determination, and action as set forth above for the P&Z.

4.5.6.2 Upon approval of the Final Plat by the City Council, the applicant shall correct and submit Final Plat copies to the City Administrator so that required signatures can be obtained and recording completed. If any corrections have been required by City Council as part of its conditional approval, the Final Plat copies shall be so corrected prior to signature by any City official. The reasons for any action taken by the City Council, whether a Final Plat is approved or denied, shall be entered in the minutes of the City Council and the processes provided in Section 3.13 shall be followed.

4.5.7 Effect of Approval. Approval of a Final Plat by the City Council shall authorize the developer to install any improvements in public rights-of-way with approved subdivision improvement plans if not already installed and to seek approval of site preparation, building and other permits. No building permit shall be issued for any lot until the subdivision has been recorded and the construction improvement requirements of this Ordinance have been satisfied. Lots may be sold only when the Final Plat has been approved by the City Council and the plat has been filed at El Paso County Clerk. ***No conveyance or sale of any portion or lot of the property may occur until after the Final Plat is approved by the City Council and filed at El Paso County Clerk.***

4.5.8 Timing of Public Improvements.

4.5.8.1 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 construction improvement plans.

- (a) 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.
- (b) 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.
- (c) 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.

4.5.8.2 Installation After Final Plat Recordation. The City Administrator, 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 for construction bonds and as provided in section 5.2.4. The security shall be issued in the amount of one hundred twenty-five percent of the cost estimate approved by the City Administrator for all remaining public improvements associated with the subdivision in accordance with this section. The City Engineer shall determine the percentage of total work called for by the subdivision approval which has already been performed and develop a cost estimate of the remaining public improvements acceptable to the City Administrator. Following completion of the improvements, the developer shall submit a maintenance bond to the City in accordance with this Ordinance.

4.5.9 Plat Recordation.

4.5.9.1 Procedure.

- a) Signatures. After approval of the Final Plat, the City Administrator shall procure the signature of the Mayor or Mayor pro tem on the Final Plat ready for recording, as well as the signature of the City Clerk who shall attest to the signature of the Mayor or Mayor pro tem.
- b) Recording upon Performance. The City Administrator shall cause the Final Plat to be recorded with the El Paso County Clerk upon the developer's performance of one of the following:
 - i) Completion of the construction of required improvements prior to recordation; or
 - ii) Where the City Administrator has authorized public improvements to be deferred, the proper assurances or security has been submitted pursuant to Section 5.2 and approved.
- c) Regardless of which option above, is chosen, subdivision improvement plans must be approved or conditionally approved in accordance with this Ordinance prior to plat recordation.

4.5.9.2 Timing of recordation. The final signed copies of the plats for recordation will be recorded within ten days of the date that staff:

- a) Received the final, approved, corrected recordation plat;
- b) Received all fees, certificates and required documents for recording;
- c) Determines that all other recording requirements have been met; and
- d) Provided that the plat may be held for recordation until a date agreed upon with the developer if the final signed copies of the plats for recordation meeting the requirements of this Ordinance have been delivered to the City and all other recording requirements have been met.

4.5.10 Submittal of Record Plat Where Improvements Have Been Installed. Where public improvements have been installed and approved for acceptance by the City prior to recording of the plat, the property owner, developer or contractor shall submit a maintenance bond in accordance with this Ordinance from each contractor, one sealed set of "as built" plans in accordance with the DSC or record drawings (submitted as mylars), and an electronic copy of all plans (in a format as determined by the City Administrator) and a copy of the letter of satisfactory completion issued by the City Administrator . The property owner also shall submit copies of the approved Final Plat, revised to reflect the "as built" plans or record drawings, in the format and number as required by the City Administrator.

4.5.11 Submittal of Record Plat Where Improvements Have Not Been Installed. Where public improvements have yet to be completed in connection with an approved Final Plat, the property owner shall submit in the format and number as set forth in the DSC, the approved Final Plat, revised to reflect any changes required by the City Council.

4.5.12 Revisions to Final Plat Prior to Filing.

4.5.12.1 Following Approval. An applicant may apply for modification of an approved Final Plat to reflect changes listed below, provided that the approved Final Plat has not been recorded and that approval of the modified Final Plat occurs prior to expiration of approval of the initial Final Plat. The City Administrator shall make the determination of whether changes are minor or major.

- a) Minor changes arising from the installation of public improvements after plat approval including easement additions and adjustments may be approved by the City Administrator.
- b) Minor changes including street name and addressing changes, dimension changes that do not substantially affect the street or lot layout or other similar minor changes and meet the requirements of this title may be approved by the City Administrator.
- c) Major revisions on Final Plats prior to recordation including those that substantially affect the street or lot layout shall be resubmitted as an amended Final Plat and will require submission for a new recommendation from the P&Z and approval by the City Council within the timeframes prescribed by this Ordinance and state law. The official filing date of a request to make major revisions on a Final Plat shall be determined in the same manner as provided in Section 3.6 of this Ordinance and the applicable timeframes shall be determined based on the official filing date.
- d) If the approved Final Plat has been recorded, revisions may only be approved as replatting or Amending Plat.

- 4.5.13 Plat Recordation. After approval of the Final Plat, the applicant shall provide the appropriate number of mylar copies of the approved Final Plat, along with any other required documents and the fees necessary for filing and distribution of the copies to the City Administrator within thirty (30) days following approval, in accordance with requirements established by the City Administrator. All easements shall be included on the Final Plat, including the recording information for those easements that are filed or recorded as separate instruments, as required by utility companies, the Lower Valley Water District, and the City prior to filing the Final Plat, and a copy of letters from each applicable utility company and the LVWD shall be submitted to the City Administrator stating that the plat contains the proper easements. All necessary filing materials as required by the County Clerk of El Paso County, in addition to the appropriate number of mylar copies and a computer disk containing the digital plat file(s) required by the City Administrator, shall be provided to the City with the required filing fees. If the required copies and materials are not provided to the City within the specified 30-day time frame, the approval of the Final Plat shall be null and void unless an extension is granted by the City Council. The plat shall be recorded as provided in subsection 4.4.9.2 of this Ordinance.
- 4.5.14 Responsibility for Copies of Recorded Plat. It shall be the owner's/applicant's responsibility to contact the County to receive executed copies of the recorded plat.
- 4.5.15 Expiration of Final Plat Approval. The approval of a Final Plat shall remain in effect for a period of three years from the date of approval by the City Council, 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 this Ordinance, shall expire and the applicable plat shall be deemed null and void. No vested rights will survive if the plat approval is nullified by a failure to submit a recording plat within the timeframe specified in this section, nor shall the owner/applicant be entitled to a refund of any application fees or review fees that may have been paid.

4.6 MINOR PLATS

- 4.6.1 General. A Minor Plat shall meet all of the informational and procedural requirements set forth for a Final Plat and the engineering and submission requirements for plats in subsection 4.3 as determined by the City Administrator to be applicable to a Minor Plat.
- 4.6.2 Materials. A copy of all application materials for a Minor Plat shall be submitted to the City for review in the same manner as for a Final Plat, or the application shall be deemed incomplete. The same process for deeming a plat application to be officially filed as provided in Section 3.6 of this Ordinance shall apply for the determination of the official filing date of an application for a Minor Plat.
- 4.6.3 Drainage Plans. The applicant must submit a drainage plan to City Engineer, unless expressly waived in writing by the City Engineer.
- 4.6.4 Title. The Minor Plat shall be entitled and clearly state that it is a "Minor Plat."
- 4.6.5 Criteria for Approval.
The City Administrator shall approve, conditionally approve, or deny the Minor Plat based upon the following criteria:

- a) The Minor Plat is consistent with all zoning requirements for the property, all other requirements of this title that apply to the plat, all City ordinances and any approved development agreement;
- b) All lots to be created by the plat already are adequately served by all required city utilities and services;
- c) The ownership, maintenance, and allowed uses of all designated easements have been stated on the Minor Plat; and
- d) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

4.6.6 Final Approval.

4.6.6.1 The City Administrator is authorized to approve a Minor Plat provided such plat meets all requirements of this Ordinance. Each Minor Plat must be approved, approved subject to conditions or denied within thirty days of a finding of completeness unless the owner of the property provides a waiver of right to thirty-day action. Review, approval, and recording of Minor Plats shall be in accordance with procedures set forth for Final Plats and shall, for purposes of the provisions of this Ordinance requiring the recording of a Final Plat in order for a subdivision to be created, be considered to be a Final Plat.

4.6.6.2 All Minor Plat applications that were disapproved by the City Administrator, shall be provided to the applicant with a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or City ordinance, that is the basis for the disapproval.

4.6.6.3 If the applicant amends its filed plat application in response to the City Administrator’s initial disapproval, the applicant may file its amended application with the City on a date or day on which the city is accepting amended filings. The City will then have up to fifteen (15) days to approve or disapprove the Amending Plat application. The City Administrator may either: (1) approve plat if the response adequately addresses each reason for the disapproval; or (2) disapprove plat if the response does not adequately address each reason for disapproval or creates new reasons for a violation of a statute or city ordinance. Any disapproval shall include a written statement of the reasons for disapproval that clearly articulates the reason for disapproval including citation to the law, a statute or city ordinance, that is the basis for the disapproval. Any plat that is disapproved after the City has reviewed the response in the form of an amended application may be refiled at any time as a new plat application.

4.6.7 Deemed Approved. If the City Administrator fails to act on a Minor Plat application within thirty days, the Minor Plat shall be deemed approved.

4.6.8 Expiration; Recordation. The Minor Plat shall be filed at the County in the same manner as prescribed for a Final Plat, and approval of a Minor Plat shall expire if all filing materials are not submitted to the City and if the plat is not filed at the County within the time periods specified for a Final Plat.

4.7 REPLATTING

4.7.1 Replat Required. Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved and filed Final Plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures and approval/denial process prescribed for the Final Plat by this Ordinance and shall, for purposes of the provisions of this Ordinance requiring the recording of a Final Plat in order for a subdivision to be created, be considered to be a Final Plat; provided however, the applicant shall comply with the engineering and submission requirements in subsection 4.3 of this Ordinance. All improvements shall be constructed in accordance with the same requirements as for a Final Plat, as provided herein. The City Administrator may waive or modify requirements for a replat under certain circumstances where

the proposed replat does not involve a large land parcel or an existing structure or business on the subject property, and where the proposed plat revisions are relatively simple in nature.

4.7.2 Replatting without Vacating.

4.7.2.1 General. A replat of a Final Plat or portion of a Final Plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- (a) Is signed and acknowledged by only the owners of the property being replatted;
- (b) Is recommended for approval and approved by the City Council, after a public hearing on the matter at which parties of interest and citizens have an opportunity to be heard;
- (c) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the Final Plat. For purposes of this section, a plat note shall be construed as a covenant or restriction; and
- (d) Does not require any revision to the engineering plans associated with the Final Plat.

4.7.2.2 Partial Replat Application. Any replat which adds or reduces lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed along with a detailed "Purpose for Replat" statement.

4.7.2.3 Validity of Previous Requirements or Conditions. In addition to compliance with the above, a replat without vacation of the preceding plat must conform to the requirements of this section if:

- (a) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
- (b) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

4.7.3 Submission Requirements

4.7.3.1 Application Requirements. An application submittal for a replat shall be the same as for a Final Plat, except as provided immediately below, and shall be accompanied by a paper copy of the original plat in a such a size as to be completely legible, the required number of copies of the replat, a completed application form, the required application fees, the engineering and submission requirements for plats including those in subsection 4.3, and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property. The replat shall also bear a detailed "Purpose for Replat" statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the applicable approving governmental entity and filed at the County.

4.7.3.2 Materials. A copy of all application materials for a replat shall be submitted to the City for review in the same manner as for a Final Plat, unless it has been determined in the pre-application meeting that the applicant must submit new engineering plans pursuant to Section 4.3 and in which case, the replat process shall be required to follow both the Preliminary Plat and the Final Plat process and the application fees processes established for those plats shall apply rather than the fee and processes for a replat, or the application shall be deemed incomplete. The same process for deeming a plat application to be officially filed as provided in Section 3.6 of this Ordinance shall apply for the determination of the official filing date of an application for a Replat.

4.7.3.3 Reference to Previous Subdivision. Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information and must state on the replat the specific lots which have changed along with a detailed “Purpose for Replat” statement.

4.7.3.4 Other Requirements. The replat of the subdivision shall meet all the requirements under current regulations for a Final Plat for a new subdivision that may be pertinent, as provided for herein. The standards for approval and the processes for the approval, conditional approval and denial of a Final Plat shall apply to the Replat.

4.7.3.5 Title. The title shall identify the document as a “Final Plat” of the _____ Subdivision, Block _____, Lot(s) _____, Being a Replat of Block _____, Lot(s) _____ of the _____ Subdivision within the City of San Elizario, Texas (or within the Extraterritorial Jurisdiction of the City of San Elizario, Texas), as recorded in Volume/Cabinet _____, Page/Slide _____ of the Plat Records of El Paso County, Texas.

4.7.4 Notice and Protest

4.7.4.1 Notice. Notice of the public hearing required by state law in the case of a replat without vacating preceding plat and the proposed replat requires a variance or exception shall be given by publication and written notice before the 15th day before the date of the hearing, as provided by state law. Such notices shall be sent to the property owners, as documented on the most recently approved ad valorem tax roll of the City, of lots that are in the original subdivision and that are within three hundred (300) feet of the lot(s) to be replatted. In the case of a subdivision in the ETJ, the most recently approved County tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with appropriate postage paid, in a post office or postal depository within the boundaries of the City. Upon approval of a replat that does not require a variance or exception, the City shall send the notices to property owners as provided Section 212.015(f) of the Texas Local Government Code.

4.7.4.2 Protest. If the property owner(s) of twenty percent (20%) or more of the total land area of lots to whom notice is required to be given under Section 212.015(c) of the Texas Local Government Code, file with the City a written protest of the proposed replat that requires a variance before or at the public hearing, then approval of the replat will require the affirmative vote of at least three-fourths (3/4) of the City Council members present and voting. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the total land area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the City prior to the close of the public hearing. In computing the percentage of land area subject to the “20% rule” described above, the area of streets and alleys shall be included.

4.7.5 Filing with County. The replat shall be filed at the County in the same manner as prescribed for a Final Plat, and approval of a replat shall expire if all filing materials are not submitted to the City Secretary, and if the replat is not filed at the County within the time periods specified for a Final Plat.

4.8 AMENDING PLATS

4.8.1 General. An Amending Plat shall meet all of the informational and procedural requirements set forth for a Final Plat, and shall be accompanied by, in both paper and electronic formats, the required number of copies of the plat, a completed application form, the required application fee, and a certificate or some other acceptable form of verification from the El Paso County Central Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property.

The procedures for Amending Plats shall apply only if the sole purpose of the Amending Plat is to:

- (a) Correct an error in a course or distance shown on the preceding plat;
 - (b) Add a course or distance that was omitted on the preceding plat;
 - (c) Correct an error in a real property description shown on the preceding plat;
 - (d) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (e) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (f) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (g) Correct an error in courses and distances of lot lines between two adjacent lots if:
 - (1) Both lot owners join in the application for amending the plat;
 - (2) Neither lot is abolished;
 - (3) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
 - (4) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
 - (h) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
 - (i) Relocate one or more lot lines between one or more adjacent lots if:
 - (1) The owners of all those lots join in the application for amending the plat;
 - (2) The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
- (3) The amendment does not increase the number of lots.

4.8.2 Materials. A copy of all application materials for an Amending Plat shall be submitted to the City for review in the same manner as for a Final Plat, or the application shall be deemed incomplete. The same process for deeming a plat application to be officially filed as provided in Section 3.6 of this Ordinance shall apply for the determination of the official filing date of an application for an Amending Plat.

4.8.3 Title. The Amending Plat shall be entitled and clearly state that it is an “Amending Plat”, and it shall include a detailed “Purpose for Amending Plat” statement which describes exactly what has been changed on the plat since the original (or previous) plat was approved by the City and filed at the County. It shall also state the specific lots affected or changed as a result of the Amending Plat and shall include the original subdivision plat boundary. All references to “Final Plat” or “replat” shall be removed.

4.8.4 Administrative Approval. The City Administrator will approve, conditionally approve or disapprove an Amending Plat in the same manner as provided for the approval or disapproval of a Minor Plat in Section 4.6 of this Ordinance. Upon review and a finding that the Amending Plat is in full

conformance with this and all other applicable City ordinances, the City Administrator may approve an Amending Plat, which may be recorded and is controlling over the preceding or Final Plat without vacation of that plat, if the Amending Plat is signed by the applicants only and if the Amending Plat is for one or more of the purposes set forth in this section.

- 4.8.5 Presentation to P&Z and City Council. The City Administrator may, at the administrator's discretion and for any reason, elect to present the Amending Plat to the P&Z and City Council for consideration and approval. Should the City Administrator wish to refer the plat, it shall be referred to the P&Z for review and the City Council for approval, conditional approval or disapproval in the same manner and standards as for a Final Plat and within the time periods required by state law and this Ordinance.
- 4.8.6 Other Process. Other than noted above, the procedure for approval of plat amendment(s) shall be the same as for Replatting.
- 4.8.7 Effect; Recordation; Expiration. Upon approval by the City Administrator or the City Council an Amending Plat may be recorded and is controlling over the recorded plat without vacation of that plat. The Amending Plat shall be filed at the El Paso County Clerk in the same manner as prescribed for a Final Plat, and approval of an Amending Plat shall expire if all filing materials are not submitted to the City Secretary or Clerk, and if the plat is not filed at the County within the time periods specified for a Final Plat.

4.9 PLAT VACATION

- 4.9.1 By Property Owner. The property owner of the tract covered by a plat may vacate, upon review by the P&Z and approval by the City Council, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. The property owner shall submit an application which shall be accompanied by:
- (a) the required number of copies of the plat;
 - (b) a completed written application form that bears the original notarized signature(s) of the property owner(s) of the subject property;
 - (c) the required application fee;
 - (d) a certificate or other satisfactory evidence from the El Paso County Central Appraisal District showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property. Documentation shall also be included that shows no delinquent assessments, fees, or other debts or obligations to the City and which are directly attributable to the subject property. One copy of the tax status certificate shall be submitted to the City in order for the application to be deemed complete; and
 - (e) any other reasonable and applicable information and materials required by subsection 3.6, the City Engineer or City Administrator.
- 4.9.2 By All Lot Owners. If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
- 4.9.3 City-Initiated Plat Vacation.
- 4.9.3.1 General Conditions. The City Council, on its motion and following a public hearing on the matter, may vacate the plat of an approved subdivision or addition when:
- (a) No lots within the approved plat have been sold within five (5) years following the date that the plat was signed by the City; or

- (b) The property owner has breached an improvement agreement and the City is unable or does not desire to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by property owner or its successor; or
- (c) The plat has been of record for more than five (5) years and the City determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

4.9.3.1 Procedure. Upon any motion of the P&Z or City Council expressing a desire to vacate the plat of any previously approved subdivision or addition, in whole or in part, the City shall provide written notice to all property owners within the subdivision or addition. As part of the application, the applicant shall provide the names and addresses of all such property owners. The notice shall state the time and place for a public hearing before the P&Z, and subsequently before the City Council, on the issue of the vacation of the subdivision or addition plat. The P&Z may recommend approval and the City Council may approve the plat vacation only if the criteria and conditions cited above are satisfied.

4.9.4 Record of Notice. If the City Council approves vacating a subdivision or addition plat, the City Secretary or Clerk shall record a copy of the plat vacation instrument in the office of the County Clerk of El Paso County along with an exhibit showing a drawing of the area or plat vacated. The County Clerk shall write legibly on the vacated plat the word “vacated” and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. If the City Council vacates only a portion of a plat, it shall cause a revised Final Plat drawing to also be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated. On the execution and recording of the vacating instrument the plat that has been vacated as a result of this instrument (or the vacated portion of the plat) has no effect.

4.9.5 Criteria. The P&Z shall review, and the City Council may approve, in accordance with the procedures provided in subsection 3.13, the application for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local Government Code, as amended, and subsection 4.8.3.1, and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the City Council may direct the applicants to prepare and seek approval of a revised Final Plat in accordance with this Ordinance such that the property does not become “unplatted”.

4.9.6 Effect. On the execution and recording of the vacating instrument, the plat that has been vacated as a result of this instrument shall have no effect. Regardless of the P&Z’s and City Council’s action on the application, the property owner will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City.

ARTICLE III. PERFORMANCE AND ACCEPTANCE

SECTION 5. CONSTRUCTION PLANS; MAINTENANCE BONDS

5.1 CONSTRUCTION IMPROVEMENT PLANS AND BONDS

5.1.1 Purpose. The purpose of construction 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 Ordinance.

5.1.2 Application Contents. The construction plan shall be in accordance with the Preliminary Plat or revised Preliminary Plat, as approved, and shall incorporate all applicable conditions, changes, directions and additions imposed by the P&Z and City Council upon the Preliminary Plat. The final improvement plans, including paving and stormwater engineering, shall be submitted in one package and be approved or approved with conditions prior to the Final Plat recordation in accordance with this Ordinance. The developer shall provide the subdivision improvement plans which shall contain all applicable improvements required by this Ordinance and the DSC, including, but not limited to, the following details:

- (a) Grading and slope stabilization;
- (b) Drainage facilities, including provisions for arroyo protection (if applicable);
- (c) Water and wastewater plans approved by LVWD;
- (d) 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;
- (e) Bikeway and transit improvements (where applicable);
- (f) Survey monuments;
- (g) Street lights;
- (h) Traffic control signs and traffic signalization; traffic calming devices (where applicable);
- (i) 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;
- (j) 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;
- (k) Street pavement markings;
- (l) Parkland and open space; and
- (m) Canals and laterals.

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-day statutory requirement for approval of plats only applies to final approval of plats and does not apply to the engineering and construction improvement plans. Incomplete plans shall be returned to the applicant.

5.1.3 Approval. The construction plan shall not be submitted prior to approval of the Preliminary Plat. The construction plan shall be approved by the City Administrator within 15 days after submission and a determination of completeness of the plans unless an extension is granted by the City Administrator.

- 5.1.4 Standards for Approval. No construction plan shall be approved by the City Administrator unless the following standards have been met:
- (a) The plan substantially complies with the approved Preliminary Plat and other studies and plans, as applicable; and
 - (b) The plan conforms to applicable zoning, subdivision and any other applicable codes or ordinances of the City that are related to development of a land parcel.
- 5.1.5 Construction Bond or Letter of Credit. Before any construction on improvements is commenced in a given subdivision and prior to the recording of the associated Final Plat, the applicant shall file with the City a corporate surety bond or letter of credit in favor of the City, in an amount equal to the cost of the construction costs and installation expenses, as estimated by the project engineer and approved by the City Engineer, to guarantee performance and completion of all such installations. Such bond or letter of credit shall be conditioned upon the applicant's compliance with this Ordinance and other ordinances of the City and shall secure and may be used for the payment of any and all damages to persons or property which damages arise from, or are caused by, any act or conduct of or authorized by the applicant upon which any legal judgment results. No work may commence on any such installations until such performance bond or letter of credit has been posted and approved by the City and a permit has been issued.
- 5.1.6 Cash in Lieu. The City may also accept cash in lieu of a surety bond or letter of credit. Payment to the City shall be deposited in an interest-bearing account established by the City with all earned interest retained by the City.
- 5.1.7 Construction Procedures. A site development permit is required from the City prior to beginning any site development-related work in the City or its extraterritorial jurisdiction that affects erosion control, storm drainage, vegetation or tree removal, or a flood plain.
- 5.1.8 Design.
- 5.1.8.1 Compliance. All aspects of the design and implementation of public improvements shall comply with the City's current design standards and any other applicable City codes and ordinances, including preparation and submittal of engineering plans and construction inspection. The construction of all of the improvements required in this Ordinance shall conform to the latest edition of the City's TCSS, as may be amended, and to any other applicable City standards.
 - 5.1.8.2 Changes or Amendments to the TCSS and Other Construction or Design Documents. The TCSS will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the TCSS may be amended by separate ordinance. It is the applicant's responsibility to be aware of, and to conform with, all TCSS requirements (including amendments) that are in place as of the time a complete application for a Preliminary Plat (including required engineering/construction plans) is received by the City.
- 5.1.9 Inspection. Periodic construction inspections as required by the City shall be conducted by an independent, duly qualified firm engaged by the property owner. Said inspections shall ensure that construction is in accordance with the approved construction plans and the TCSS of the City (and other applicable codes and ordinances). Upon completion of each inspection, a written report shall be forwarded to the City that fully documents the inspection conducted, the tests completed, specific items that are in compliance or noncompliance, actions that must be taken to bring the construction into compliance, and any other information required by the City Engineer. The City may either

require reinspection by the applicant's independent firm or conduct its own independent inspection as required by the City Engineer. The owner or developer shall pay for all costs for inspections under this section to include but not be limited to reimbursing the City for any inspection costs it incurs. All reimbursements to the City must be paid prior to the City's acceptance of the improvements.

5.1.10 Remedies. In addition to all other remedies authorized in this Ordinance, where security required in this Ordinance has been posted, but required public improvements have not been installed in accordance with the terms of this Ordinance, the City may:

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

5.2 MAINTENANCE BOND; FINANCIAL SECURITY

5.2.1 Financial Security (Maintenance Bond Requirement). At the time that any improvements are accepted by the City, and prior to recording of the Final Plat if applicable, the developer shall provide to the City a two-year maintenance bond (warranty) or other financial guarantee as provided herein as security against damages or defective work occurring during the two (2) year maintenance period to begin on the date of acceptance of the improvements by the City.

5.2.2 Purpose. The maintenance bond shall bind the developer or contractor to correct any defects in materials, workmanship (including utility backfills), or design inadequacies, or damages, which may be discovered within said two (2) year maintenance period. The owner shall correct or cause the contractor to correct at his own expense, such damage or defects within 30 days after receiving written notice of such defects from the City. If the owner fails or refuses to correct such defects within the said 30-day period or to provide acceptable assurance that such work shall be completed within a reasonable time thereafter, the City may decide to correct or cause to be corrected any such damages or defects and call down the maintenance bond.

5.2.3 Amount of Bond. The maintenance bond shall be equal to 50% (fifty percent) of the original construction security and shall remain in place for the maintenance performance period. The bond shall provide that should it be deemed unenforceable as a statutory bond, the developer shall be bound by the contract as a common law obligation.

5.2.4 Financial Security Requirements. A maintenance bond or financial guarantee such as a letter of credit shall meet the following requirements:

- (a) be made payable to the City;
- (b) shall be in an amount determined by the City to be adequate to ensure proper construction or installation of the roads and streets, public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies. In no event shall the amount be less than the total amount needed to serve the subdivision as established by the engineer who certified the plat;
- (c) shall be conditioned upon construction or installation of roads, streets, and water and wastewater facilities meeting the criteria established by these regulations and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any reasonable extension of time granted by the City Council;

- (d) must be in a form (see Appendix A or B) acceptable to the City Administrator;
- (e) for performance bonds, must be executed by such sureties as are named in the current list of “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies”, as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;
- (f) must be signed by an agent, and must be accompanied by a certified copy of the authority for him or her to act; and
- (g) for performance bonds, must be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required and approved as per ratings of the Texas Department of Insurance, or a successor agency;
- (h) for a letter of credit, be irrevocable;
- (i) for a letter of credit, be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two (2) years; and
- (j) for a letter of credit, require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying the City’s right to draw funds under the letter of credit.

5.2.5 Inspections. Periodic inspection of all improvements for which the maintenance bond is held will be made by the City during the period of liability covered by the maintenance bond.

5.2.6 Extended Street Warranty. In the event of the maintenance or repair of a defect in the roadway improvement for any accepted street classification during the initial guarantee period, the developer shall provide a one-year extended maintenance guarantee in favor of the City, as applicable, for the entire station(s) of the defect area, such one-year period to commence upon completion of the subject maintenance or repair. Such extended maintenance guarantee procedure shall be repeated until the defect with the affected station(s) has been remedied.

5.2.7 Bankruptcy or Insolvency. If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within twenty (20) days thereafter, substitute another performance bond and surety, both of which must be acceptable to the City.

5.2.8 Governmental Units. The City Council may accept from governmental units in lieu of a security, a certified resolution or ordinance from officers or agents authorized to act in their behalf agreeing to comply with the provisions of this Ordinance.

5.2.9 Bond Release. Upon the expiration of the two (2) year maintenance performance period, or the period of an extended street warranty, the City shall release the fiscal security/maintenance bond, provided that all damages or defects identified to the owner by the City Engineer or code official have been corrected.

SECTION 6. ACCEPTANCE OF IMPROVEMENTS

6.1 ADEQUATE PUBLIC FACILITIES POLICY

The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be permitted or approved unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located

within the property being platted or off-site. Wherever the subject property adjoins undeveloped land, or wherever required by the City to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.

6.2 ACCEPTED PUBLIC IMPROVEMENTS

Public improvements that are required by the City for the acceptance of the subdivision by the City include, but are not limited to, the following:

- (a) Water and wastewater facilities;
- (b) Stormwater drainage, collection and conveyance facilities;
- (c) Water quality, erosion and sedimentation controls;
- (d) Streets;
- (e) Streetlights;
- (f) Street signs;
- (g) Sidewalks on both sides of the street in both residential and nonresidential developments utilizing curbs (not open ditches). Sidewalks shall be required in conjunction with sewer line installation. Sidewalks shall include barrier-free ramps at street intersections and other appropriate locations, as well as root barriers if necessary due to the close proximity of trees;
- (h) Screening and/or retaining walls;
- (i) Traffic-control devices or treatments required as part of the project; and
- (j) Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.

6.3 ACCEPTANCE OF PUBLIC IMPROVEMENTS

6.3.1 Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The City Council may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the property owner has posted a performance bond, letter of credit or cash bond in the amount of one hundred percent (100%) of the estimated cost of those remaining improvements for a length of time to be determined by the City Council. If the remaining public improvements are greater than ten thousand dollars (\$10,000.00) and are not completed within the determined length of time, the City will impose a penalty that equals ten percent (10%) of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the developer, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than ten thousand dollars (\$10,000.00), the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the City.

6.3.2 Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by authorization of the City Administrator. The approval by the City Council of a Final Plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the City of any street, public area, easement or park shown on the plat. The City may require the plat to be endorsed with appropriate notes to this effect.

6.3.3 Prior to acceptance of the improvements, the property owner, developer or contractor shall submit a letter stating that the construction of the improvements is in compliance with the construction plan

standards of this Ordinance, together with a letter bearing sealed certification by an engineer that all public improvements have been constructed in compliance with all city construction standards.

- 6.3.3 Submission of Record Drawings. The City will not deem required public improvements satisfactorily completed until the applicant's engineer or surveyor has certified to the City Engineer, through submission of detailed sealed record drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the City Engineer, and until all required public improvements have been completed. The record drawings shall be sealed drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with engineering plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet a "record drawing" stamp bearing the signature and seal of the licensed professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the City with a copy of the approved Final Plat and the engineering plans, if prepared on a computer-aided design and drafting (CADD) system, in such a digital format (on disk) that is compatible with the City Engineer's CADD system.
- 6.3.4 Upon submission of an engineer's letter meeting the requirements of subsection 6.6.3 of this Ordinance to the City, the City Administrator shall thereafter make a recommendation to the City Council for consideration of satisfactory completion of the public improvements and their acceptance by the City.
- 6.3.5 Once the City Council votes to accept the public improvements, the City Administrator will request the required maintenance bond be provided by the developer. Once this maintenance bond is provided, the City Administrator will issue a letter of satisfactory completion and acceptance of the improvements to allow for release of the construction bond and he will provide a copy of such letter to the developer.

6.4 WITHHOLDING OF SERVICES AND PERMITS UNTIL ACCEPTANCE

The City may refuse to grant final acceptance of a subdivision that does not fully and completely comply with all terms and conditions of this Ordinance. Until full compliance, the City may withhold all City services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of all other City services from any subdivision or property until all of the street, utility, storm drainage and other public improvements, as well as lot improvements to include retaining walls, grading, and installation of improvements required for proper lot drainage and prevention of soil erosion on the individual residential lots, are properly constructed according to the approved engineering plans and to City standards. In addition, without limiting the type or number of approvals the City may withhold, the City may refuse to grant development, construction, or occupancy approvals for improvements, including site development permits, building permits, utility connections, and certificates of occupancy.

ARTICLE IV. MINIMUM SUBDIVISION AND DEVELOPMENT STANDARDS

Specifications for improvements contained in this Ordinance and applicable ordinances and regulations shall be drawn and construction performed in accordance with the TCSS, and relevant construction standards and codes that are in effect at the time the Preliminary Plat application is officially submitted and deemed a complete application.

SECTION 7. STREET STANDARDS; DESIGN

7.1 TRAFFIC IMPACT ANALYSIS

7.1.1 Purposes and Findings.

- (a) New development must be served and supported by an adequate network of streets and thoroughfares.
- (b) Streets and thoroughfares are an essential component of the City's street network and are necessary to accommodate the continuing growth and development of the City.
- (c) It is necessary and desirable to obtain rights-of-way for off-site, abutting and internal thoroughfares to support new development at the time of platting, rezoning or development of the land.
- (e) The purpose of the provisions within this Ordinance are to ensure that both development impacts on off-site and on-site thoroughfare rights-of-way are mitigated through contributions and/or improvements of thoroughfare rights-of-way and that new development does not contribute more than their proportionate share of costs or construction of thoroughfare rights-of-way and only contribute that which is necessary and attributable to their development.
- (f) It is the City's intent to assure that dedication of thoroughfare and street rights-of-way and their construction requirements are proportional to the traffic demands created by a new development.
- (g) It is the intent of the City that a road adequacy determination be made concurrent with consideration and approval of rezoning applications and plat applications.

7.1.2 **Requirement.** A traffic impact analysis (TIA) is required of a proposed development project or plat involving a significant change to a proposed roadway alignment from that shown on the City of San Elizario Transportation Plan or involving a development of 50 or more dwelling units, or for developments generating 500 or more "one-way" trips per day. A proposed roadway alignment change shall also be preceded by or simultaneous with an amendment to the City's Transportation Plan showing the new proposed alignment. Failure to provide for such approvals prior to submission of a Preliminary Plat or concurrently with the Preliminary Plat application shall be grounds for denial of the plat application.

7.1.3 **Exceptions.** An applicant may request that the TIA be waived. The requirement for a TIA may be waived under the following criteria:

- (a) The City Administrator determine that a TIA is not needed due to traffic analysis or traffic studies already completed; or
- (b) Improvements are already constructed that will serve and support the new development.

7.1.4 **Required Analysis Components.** A TIA shall include the following elements:

- (a) **General Site Description.** A detailed description of the roadway network within one (1) mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development shall be provided. This

description, which may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing ingress and egress locations; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic-control devices; and (5) all existing and proposed public transportation services and facilities within a one (1) mile radius of the site.

- (b) Proposed Capital Improvements. A listing of any changes to the roadway network within one (1) mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width or alignment of roadways affected by the proposed development.
- (c) Study Area. A map(s) delineating the TIA study area and all existing and planned streets contained therein. The study area shall be based on the total daily estimated trip generation. The study area shall be a one-mile radius for less than 10,000 trips per day. A larger radius shall be considered for more than 10,000 trips per day.
- (d) Existing Zoning and Land Uses. A description of the existing zoning and land uses in the area for which a development is proposed, including: existing land area by zoning classification, existing land area by current land use classification, and density figures expressed as FAR, square footage, numbers of hotel rooms, dwelling units, etc.
- (e) Proposed Development. A description of the proposed development including land area by proposed land use and density figures expressed as FAR, square footage, number of hotel rooms, dwelling units, etc.
- (f) Thoroughfare Network. A description of roadway development for a twenty-year planning horizon for the entire study area and base volumes of thoroughfares within the study area.

7.1.5 Roadway Impact Analysis. The TIA will describe the V/C ratio (volume/capacity) for all thoroughfares as shown on the City's Thoroughfare Plan and delay projections for intersections in the studied area to determine if level of service cooperation is maintained. The analysis shall contain the following minimum information:

- (a) Transportation Impacts:
 - (1) Trip Generation. The average weekday trip generation rates (trip ends), the average weekend trip generation rates (for uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (for uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers Trip Generation book; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the City Administrator and the City Engineer. Trip generation calculations shall assume full development and occupancy.
 - (2) Trip Distribution. The distribution of trips to arterial and collector roadways within the study area shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments, if applicable; the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions identified.

- (3) Existing Trip Generation. Show in tabular form by land use the trips generated based on existing land use and zoning within the study area.
- (b) Adequacy Determination. The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at a level of service “C” or above (refer to the City’s Transportation Plan for discussion of levels of service).

7.1.6 Intersection Analysis.

- (a) Level of Service Analysis. For intersections within the roadway traffic impact analysis area, a level of service analysis shall be performed for all arterial to arterial, arterial to collector, collector to arterial, and collector to collector intersections, and for any other pertinent intersections identified by the City Administrator or by the City Engineer. Also, level of service analyses will be required on all proposed site driveway locations for all nonresidential developments. The City may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage and typical size of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor. Conclusions shall be included that describe the following:
 - 1. Summary of points of conflict and congestion with all thoroughfare links or intersections that exceed a level of service "C" being identified; and
 - 2. The percentage of change produced by the proposed development.
- (b) Adequacy Analysis. The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service “C” or above.

7.1.7 Effect of Adequacy Determination. If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area that would cause the roadway to fall below the level of service required hereto, the proposed development shall be denied unless the developer agrees to one of the following conditions:

- (a) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
- (b) A reduction in the density or intensity of development;
- (c) The dedication or construction of facilities needed to achieve the level of service required herein; or
- (d) Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.

7.2 TCSS; CONSTRUCTION REQUIREMENT

The arrangement, character, extent, width, grade and location of all streets shall conform to the City's TCSS and shall be considered in their relation to existing and planned streets or driveways, whether within the City of San Elizario, within its ETJ area, or within adjacent municipal or County areas, to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements shall not be permitted in any subdivision unless such are required by the City in the public interest, such as to enhance public safety or other public interest. Streets will be constructed in accordance with the City's TCSS and construction standards that are in effect at the time the Preliminary Plat application is officially submitted and deemed a complete application.

7.3 ADEQUACY AND ACCESS REQUIREMENTS

7.3.1 Responsibility for Adequacy. The property owner shall assure that the subdivision is served by adequate streets and thoroughfares and shall be responsible for the costs of rights-of-way and street improvements in accordance with the following policies and standards, and be subject to the City's cost participation policies on oversized facilities, and be in accordance with the technical standards and transportation plan.

7.3.2 General Adequacy Policy. Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Direct access off of Socorro Road in heavily traveled areas is generally discouraged, and where possible and to the greatest extent possible, access should be made through a side street. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the City's Transportation Plan, road classification system, Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.

7.3.3 Road Network. New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, and safe and efficient traffic circulation. The adequacy of the road network for developments of 50 or more dwelling units, or for developments generating 500 or more "one-way" trips per day, or for developments involving collector or arterial streets not appearing on the City's Transportation Plan, shall be demonstrated by preparation and submission, prior to or along with the Preliminary Plat application, of a traffic impact analysis as contained in this Ordinance which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project or constitutes a portion of the land to be ultimately developed, the City Council may require a demonstration of adequacy pursuant to this section for additional phases or portions of the property as a condition of approval for the proposed Preliminary Plat. In the event that the applicant submits a traffic impact analysis for an entire phased development project, the City may require an update of the study for each subsequent phase of the development which reflects any applicable changed conditions. If the Preliminary Plat is in conformance with the Transportation Plan and if the Preliminary Plat is for a development of less than 50 dwelling units or for a development generating less than 500 "one-way" trips per day, then a traffic impact analysis is not required.

7.3.4 Approach Roads and Access. All subdivisions must have at least two (2) points of vehicular access (primarily for emergency vehicles) and must be connected via improved roadways to the improved

thoroughfare and street system (City, County and State, as may be applicable) by one or more approach roads of such dimensions and improved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending upon the size or density of the proposed development, or if such need is demonstrated by traffic impact analysis. This requirement shall be waived by the City upon demonstration by the Applicant that the required access points are prohibited by TxDOT.

7.3.4.1 “Two (2) points of vehicular access” shall be construed to mean that the subdivision has at least two (2) improved roads accessing the subdivision from the improved thoroughfare system, and the subdivision has at least two (2) road entrances. The City Council may, at its discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single median-divided entrance from the City’s improved thoroughfare system provided that the median extends into the subdivision for an unbroken length of at least two hundred feet (200’) to an intersecting internal street which provides at least two (2) routes to the interior of the subdivision. For example, the entrance street is not a dead-end or cul-de-sac, and it does not create a “bottleneck” allowing only one emergency route into the interior of the subdivision. A perimeter street for which only half of the right-of-way is dedicated and improved pursuant to subsections 7.5.1 and 7.5.2 shall not qualify to serve as one of the required points of access.

7.3.4.2 The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated public street as required by applicable zoning or thirty-five feet (35’), whichever is greater, unless other provisions have been authorized through planned development approval. Each nonresidential lot shall have a minimum frontage on a dedicated public street as required by applicable zoning or fifty feet (50’), whichever is greater.

7.3.4.3 At the discretion of the City Engineer, primary access points off of Socorro Road may be limited and redirected to side streets when appropriate to address the more heavily traveled portions of Socorro Road.

7.3.4.4 At the discretion of the City Engineer, the second access point may take the form of an unimproved dedicated public right-of-way without requiring improvement. The City Engineer may waive the requirement for a second access point if justified by the presence of a multiple-lane entrance and exit, the width of the single access point, and any geographical or topographical considerations.

7.4 OFF-SITE IMPROVEMENTS

Where a traffic impact analysis (TIA) demonstrates the need for such facilities, or where the City believes public safety is at risk, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or in conjunction with related developments. The City may participate in the costs of oversize improvements with the property owner as set out herein, and subject to the City’s cost participation policies on oversized improvements. The extent of the public exaction for off-site improvements, and the City’s level of participation in cost-sharing, may be established through an agreement.

7.5 STREET DEDICATIONS

- 7.5.1 Dedication of Right-of-Way. The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Transportation Plan and as required by the TCSS or by other valid development plans approved by City Council. In the case of perimeter streets, half of the total required right-of-way width for such streets shall be provided unless the proposed development is on both sides of the street, in which case the full right-of-way width shall be provided, or unless there is some other compelling reason to require more than half of the right-of-way width (to include avoiding the infringement upon or demolition of existing structures, avoiding crossing a creek, floodplain or some other obstacle, or other similar circumstance). In some instances, more than half of the required width shall be required when a half-street is impractical or unsafe and depending upon the actual or proposed alignment of the street, such as in the case of a curved street, as may be required by the City Council.
- 7.5.2 Perimeter Streets. Where an existing half-street is adjacent to a new subdivision or addition, the other half of the street shall be dedicated, and an appropriate amount of the street shall be improved, by the developer of the new subdivision or addition. Construction of a half-street shall be as provided in subsection 7.18.
- 7.5.3 Slope Easements. The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three feet (3') horizontal run to one foot (1') vertical height, or a three-to-one (3:1) slope.

7.6 STREET PAVING

All streets and thoroughfares shall be paved to City standards and within rights-of-way as required by the Transportation Plan and this Ordinance, and in accordance with the TCSS and other City standards as may be from time to time amended or adopted. The City Council may approve alternate paving designs for residential subdivisions in accordance with the TCSS Manual.

7.7 INTERSECTIONS; TRAFFIC CONTROL DEVICES

Intersection improvements and traffic-control devices shall be installed as warranted in accordance with the traffic impact analysis required by this Ordinance, or as may be required by the City or TxDOT for traffic safety and efficiency. Construction and design standards shall be in accordance with City standards and the TCSS.

7.8 PHASED DEVELOPMENT

Where a subdivision is proposed to occur in phases, the applicant shall provide a proposed schedule of development which sets forth the planned development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The City Council shall determine whether the proposed streets and street improvements are adequate as required by this Ordinance and other applicable ordinances and regulations. The City Council may require that a traffic impact analysis be submitted for the entire project or such phases as necessary to adjudge whether the subdivision will be adequately served by streets and thoroughfares.

7.9 PRIVATE STREETS

Private streets may be established pursuant to this Ordinance or any other ordinances or guidelines for private street developments as may be adopted for use by the City. All private streets shall be designed and constructed in accordance with the City's standards for publicly dedicated streets. The term "private street" shall be inclusive of alleys, if such are allowed and to be provided within the subdivision.

7.9.1 Subdivision Eligibility Criteria. Private streets shall be allowed only within a subdivision satisfying each of the following criteria:

- (a) The streets will be restricted to private use to access areas within the subdivision and are not intended for regional or local through-traffic circulation;
- (b) The subdivision is located in an area that is surrounded on at least three (3) sides, meaning at least seventy-five percent (75%) of the perimeter, by natural barriers, to include creeks, floodplains, steep topological slopes, geologic formations or wildlife preserves, or by similar barriers created by man, to include a golf course or linear park. Non-qualifying barriers include screening walls, roadways, man-made drainage ditches or berms, utility easements and rights-of-way;
- (c) The subdivision is not located adjacent to an existing or approved public street subdivision that can be reasonably connected, even though the street connection would require construction of a bridge or culvert. In this instance, the two subdivisions shall be connected as public street subdivisions unless the bridge or culvert would be so expansive as to be impractical or unfeasible;
- (d) A mandatory property owners or homeowners association, which includes all property to be served by the private streets, will be formed; and
- (e) The subdivision conforms to any other special guidelines for private street developments as may be approved separately by the City Council.

7.9.2 Exclusion of Certain Streets. Roads or streets that are shown on the City's Transportation Plan shall not be used, maintained or constructed as private streets, and a private street subdivision shall not cross or interfere with an existing or future collector or arterial street. In addition, the P&Z and City Council may deny the creation of any private street if, in their sole judgment, the private street would negatively affect traffic circulation on public streets, or if it would impair access to the subject or adjacent property; impair access to or from public facilities including schools or parks; or if it would cause possible delays in the response time of emergency vehicles.

7.9.3 Access onto Public Thoroughfare. A private street subdivision shall provide a minimum of eighty feet (80') of access frontage on a public collector or arterial street for subdivision entrances in order to accommodate a median-divided entrance with appropriate vehicle stacking, queuing and turnaround area. Primary access into a private street subdivision shall be from a major roadway, which has a minimum right-of-way of sixty feet (60'), or from a larger roadway, as shown on the City's Transportation Plan. Restricted access entrances shall not be allowed from residential collector streets, minor residential or local streets, nor from alleys or private driveways or parking lots. A private street subdivision shall provide a minimum of eighty (80) feet queuing distance between edge of pavement of public roadway and subdivision gate. As an alternative to the queuing distance the applicant may dedicate and promptly construct deceleration/acceleration turning lanes.

7.9.4 Parks, Greenbelts and Wildlife Preserves Excluded. A private street subdivision shall not cross or interfere with public access to or enjoyment of an existing or future public pedestrian pathway, hike and bike trail, greenbelt, park, or wildlife preserve as shown on the City of San Elizario' Parks and Open Space Plan (to be implemented) or as already dedicated for public use.

- 7.9.5 Property Owners or Homeowners Association. Subdivisions developed with private streets shall have a mandatory property owners association which includes all property and lots served by the private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances. The association documents shall be reviewed and approved by the City Administrator and the City Attorney to ensure that they conform to these and other applicable City rules and regulations. The documents shall be filed of record at the County prior to Final Plat approval in order to ensure that there is an entity in place for long-term maintenance of private streets and appurtenances. The association may not be dissolved without the prior written consent of the City Council. No portion of the association documents pertaining to the maintenance of private streets and alleys, and assessments therefor, may be amended without the written consent of the City Council. The City will not assist in enforcing deed restrictions.
- 7.9.6 Private Street Lot. Private streets must be constructed within a separate lot owned by the property owners association. This lot must conform to the City's standards for public street rights-of-way. An easement covering the street lot shall be granted to the City providing unrestricted access to and use of the property for any purpose deemed necessary by the City. This right shall also extend to all utility providers operating within the City and to other necessary governmental service providers, to include the U.S. Postal Service. The easement shall also permit the City to remove any vehicle or obstacle within the street lot that may impair emergency access.
- 7.9.7 Construction and Maintenance Cost. The City shall not pay for any portion of the cost of constructing or maintaining a private street.
- 7.9.8 Infrastructure and Utilities. Any public water, sewer and drainage facilities, streetlights, and traffic-control devices to include traffic signs, placed within the private street lot shall be designed and constructed to City standards, and shall be accepted by and dedicated to the City prior to filing the record plat for the subdivision. All private traffic-control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices", as amended, and to City standards. All City regulations relating to infrastructure financing, developer cost participation, and capital cost recovery shall apply to developments with private streets, with the exception of those applying to street construction.
- (a) The metering for utilities such as water, gas and electricity shall be located on the individual lots to be served, not grouped together in a centralized location(s), such as "gang-box" style metering stations, which shall not be permitted.
- 7.9.9 Plans and Inspections. Plat applications for subdivisions with private streets must include the same plans and engineering information required for public streets and utilities. City requirements pertaining to review and approval of improvements shall apply, and fees charged for these services shall also apply. The City may periodically inspect private streets, and may request any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.
- 7.9.10 Restricted Access. The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained nor regularly patrolled by the City. All restricted access entrances must be manned twenty-four (24) hours every day, or they must provide a reliable, alternative means of ensuring City and emergency access to the subdivision, preferably with an Opticom-type system for emergency access, by the City and other utility or public service providers, to include postal carriers and utility companies, with appropriate identification. The method to be used to ensure City and emergency access into the subdivision shall be approved by the City Council and by all applicable

emergency services providers prior to engineering release for construction of the development. If the association fails to maintain reliable access as required herein, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association. The association documents shall contain provisions in conformity with this section which may not be amended without the written consent of the City Council.

- 7.9.11 Restricted Access Entrance Design Standards. Any private street (and any other type of gated entrance) which has an access control gate or cross-arm must have a minimum uninterrupted pavement width of twenty-four feet (24') at the location of the gate or access control device, both ingress point and egress point, regardless of the type of device used. If an overhead, or lift-up, barrier is used, it must be a minimum of sixteen feet (16') in height above the road surface, and this clearance height shall be extended for a minimum distance of fifty feet (50') in front of and behind the location of the device. All gates and cross-arms must be of a breakaway design. A minimum vehicle stacking distance of one hundred feet (100') shall be provided from the right-of-way line of the public road from which the private street subdivision is accessed to the first vehicle stopping point, which is usually an access request keypad, a telephone, or a guard's window. Adequate distance shall be provided between the access request point(s) and the entry barrier, or gate, to accommodate a vehicle turnaround as described below.
- 7.9.12 Turnarounds. A paved turnaround space must be located in front of (*i.e.*, prior to passage of) any restricted access entrance barrier, between the access request device and the barrier or gate, to allow vehicles that are denied access to safely exit onto public streets without having to back up, particularly into the public street upon which the entrance is located. The design and geometry of such turnaround shall be of such pavement width and having such inside turning radius that it will accommodate smooth, single-motion U-turn movements by the following types of vehicles:
- (a) Larger passenger vehicles, such as full-sized vans and pickup trucks;
 - (b) Passenger vehicles with short trailers up to twenty-four feet (24') in length, such as small flatbed, camping or box-type trailers; and
 - (c) The types of service and utility trucks that typically visit or make deliveries to neighborhoods that are similar to the proposed private street development, such as utility service vehicles, postal or UPS delivery trucks, and two or three-axle flatbed or box-type trucks used by contractors and moving companies.

The City Administrator, the P&Z, or the City Council may require submission of additional drawings, plans or exhibits demonstrating that the proposed turnaround will work properly, and that vehicle turnaround movements will not compromise public safety on the entry roadway or on the adjacent public street(s).

A site plan showing the design and location of all proposed access restricted entrances shall be submitted for review by the City Engineer, along with the engineering plans for the subdivision, and must be approved by the City Council along with approval of the Preliminary Plat.

- 7.9.13 Waiver of Services. The subdivision Final Plat, property deeds and property owners' association documents shall note that certain City services shall not be provided for private street subdivisions. Among the services which will not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided, as well.
- 7.9.14 Private Streets: Application to Convert to Public Streets. The property owners association documents shall contain provisions that describe how the association may make application to the

City to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. However, in no event shall the City be obligated to accept said streets as public. Should the City elect to accept the streets as public, then the City has the right to inspect the private streets and to assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets. The City shall be the sole judge of whether repairs are needed. The City may also require, at the association's or the lot owners' expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot or within any other common area. The association documents shall provide for the City's right to such removal and assessment. Those portions of the association documents pertaining to the subject matter contained in this section shall not be amended without the written consent of the City Council.

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

7.10 ESCROW POLICIES AND PROCEDURES

- 7.10.1 Request for Escrow. Where this Ordinance requires a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may, if there exist unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as TxDOT or El Paso County or utility improvements, that would present undue hardships or that would impede public infrastructure coordination or timing, request the City to construct the street or thoroughfare at a later date in exchange for deposit of escrow as established in this section. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways required under this Ordinance, the City Administrator may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The City Council shall review the particular circumstances involved including requiring a traffic impact analysis if necessary, and shall determine whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare with his or her development.
- 7.10.2 Escrow Deposit with the City. Should the City Council agree to accept escrow deposits in lieu of construction by the owner of the property under this Ordinance, the property owner or developer shall deposit in escrow with the City an amount equal to his or her share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate inflation factor to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future. Such amount shall be reviewed and approved by the City Administrator and by the City Engineer and shall be paid prior to release of engineering plans by the City Engineer. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.
- 7.10.3 Determination of Escrow Amount. The amount of the escrow shall be determined by using the maximum comparable "turnkey" bid price of construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be

needed). Such 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 Administrator and the City Engineer.

- 7.10.4 Termination of Escrow. Escrows, or portions of escrowed amounts, which have been placed with the City and which have been held for a period of ten (10) years from the date of such payment or agreement and where the City has not 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 property owner along with one-half of its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.
- 7.10.5 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 or applicant who originally paid the escrow amount 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.
- 7.10.6 Interest Limitation. Notwithstanding any other provision in this section, if money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half of its accrued interest.

7.11 STREETS NOT ON TRANSPORTATION PLAN

For streets that are not shown on the City's Transportation Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:

- (a) Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;
- (b) Conform to a plan for the neighborhood approved or adopted by the City Council to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
- (c) Provide for future access, such as by stubbing streets for future extension to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and
- (d) Not conflict in any way with existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).

7.12 RESIDENTIAL COLLECTOR STREETS

Residential collector streets and minor residential streets shall be laid out such that their use by through traffic will be discouraged, such as via circuitous routes or multiple turns or offsets, but such that access is provided to adjacent subdivisions or other areas of established residential development.

- 7.12.1 Wherever the right-of-way width of a collector or residential street must transition to a greater or lesser width, such transition shall occur along the front, side or rear lot lines of adjacent lots (for a

reasonable distance) and shall not occur within the street intersection itself. In other words, the right-of-way width shall be the same on both sides of the street intersection.

7.12.2 To the greatest extent possible, the number of lots fronting along residential collector streets shall be minimized in order to ensure adequate traffic safety and efficiency. No more than twenty percent (20%) of the total centerline length of a collector street may have residential lots fronting onto the collector on each side of the street. For example, a collector street having a total centerline length (from one terminus to another) of 1,000 feet may have lots fronting onto it with a total frontage distance of 200 feet on each side of the street. Calculations shall be submitted with the Preliminary Plat application verifying that lots fronting onto a collector street do not exceed the above.

7.12.3 At least fifty percent (50%) of the total centerline length of all streets (including collector streets) within a residential subdivision (or within each phase of a residential subdivision, unless otherwise approved by City Council to apply to the subdivision in its entirety rather than each individual phase) shall be curvilinear in design. Calculations shall be submitted with the Preliminary Plat application verifying that the above curvilinear street requirement is being met.

7.13 RELATION TO ARTERIAL

Where a subdivision abuts or contains an existing or proposed arterial street, the City Council may require marginal access streets, reverse frontage (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

7.14 RESERVE STRIPS

Reserve strips controlling access to streets shall be prohibited except where their control is required by the City and approved by the City Council.

7.15 INTERSECTING STREETS

Intersecting, undivided streets with centerline offsets of less than 150 feet shall be avoided. Intersecting streets onto an existing or future divided roadway must be configured such that the centerline offset will accommodate the appropriate median opening and left turn lanes with required transition and stacking distances on each divided roadway and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway in order to share the median opening.

7.16 INTERSECTIONS WITH MAJOR THOROUGHFARES

A street intersection with a major thoroughfare shall be at a ninety-degree (90°) angle and shall be tangent to the intersecting street for at least one hundred feet (100'). All other street intersections shall be laid out so as to intersect as nearly as possible at a ninety-degree (90°) angle or radial to the centerline of the intersecting street for the full right-of-way of the intersecting street, and tangent to the intersecting street for at least fifty feet (50'). No street shall intersect at an angle that is less than eighty-five degrees (85°).

7.17 RIGHTS-OF-WAY

Street right-of-way widths shall be as shown on the Transportation Plan; and as defined by the corresponding roadway cross-sections in the Transportation Plan, and in the City's TCSS Manual.

7.18 HALF-STREETS

- 7.18.1 Prohibition. Construction of half-streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of this Ordinance and the Transportation Plan, and where the City Council makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The City Council may also find that it would be more practical, or cost effective, to delay construction of the other half of a street until when the adjoining property is developed.
- 7.18.2 Owner's Responsibility. If the property owner is responsible for one-half (1/2) of the street, then the property owner shall either construct the facility along with the development or shall provide escrow for the construction cost of his or her share of the facility (including all applicable street appurtenances to include median openings, left turn lanes into the development, sidewalks with barrier-free ramps, drainage structures, etc.) unless the City participates in the construction of the facility. Whenever a partial street has been previously platted along a common property line, the other portion of the street right-of-way shall be dedicated such that the right-of-way is increased to the street's ultimate planned width. Improvements shall be made to all on-site facilities.

7.19 BLOCK LENGTH

The following applies to subdivision block or street segment design, including a looped street, as measured along the street centerline and between the point(s) of intersection with other through streets, but does not include blocks with cul-de-sacs or dead-ends:

- (a) Maximum Length. Residential blocks in an urban subdivision shall not exceed one thousand two hundred (1,200) feet between the centerlines of street intersections; however, if blocks are parallel to and adjacent to an arterial road as defined by the County, such blocks shall not exceed one thousand six hundred (1,600) feet between the centerlines of street intersections. Commercial and industrial blocks in areas zoned for each shall not exceed two thousand (2,000) feet between the centerlines of street intersections.
- (b) Minimum Length. The minimum block length is four hundred (400) feet.

7.20 CUL-DE-SAC

- 7.20.1 General. In general, a cul-de-sac street shall not be longer than 600 feet, and at the closed end shall have a turnaround bulb with an outside pavement diameter of at least 80 feet and a right-of-way diameter of at least 100 feet. The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the centerline of the cul-de-sac bulb.
- 7.20.2 Waivers. The P&Z may recommend, and the City Council may approve, waivers for under or over-length streets or cul-de-sacs, whether temporary or permanent, upon considering the following:
- (a) Alternative designs which would reduce street or cul-de-sac length;
 - (b) The effect of over-length streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes;
 - (c) Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an over-length street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures; and

(d) The provisions set forth in subsection 13.2 of this Ordinance.

7.21 DEAD-END STREETS

Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land. In the case of dead-end streets which will eventually be extended into the adjacent subdivision, no more than one lot per side can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac. The City Engineer may authorize the use of asphalt or other durable paving material than concrete for the arc, or “wing”, portions of the temporary turnaround bulb in order to minimize the cost of removing those portions later on. A note shall be placed on the Final Plat clearly labeling any temporary dead-end streets, if any, that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub such as on the barricade, also stating that the street will be extended in the future. Signage and lettering must be large enough to be legible by a person with normal vision at a twenty-foot distance. Any required temporary turnaround easements shall be shown on the Final Plat along with their appropriate recording information, if they are off-site or established by separate instrument.

7.22 EXTENSION OF EXISTING STREETS

New streets which extend existing streets shall bear the names of the existing streets or as otherwise provided in Section 9 of this Ordinance and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

SECTION 8. STREETLIGHTS

8.1 STANDARDS

The developer shall furnish and install streetlights along all public and private streets, whether within the corporate limits or within the extraterritorial jurisdiction. Such streetlights shall comply with the requirements of this Ordinance, the City lighting ordinance and with the requirements of the DSC. Street lighting shall be of a design that casts light downward to the greatest extent possible, and shall minimize light overspill onto adjacent properties. The standards shall apply in determining the number of streetlights required and are based on approved standards of the American National Standards Institute and the Illuminating Engineering Society of North America.

8.2 INSTALLATION

8.2.1 Streetlights shall be installed in accordance with the DSC by the developer:

- (a) At all intersections as close to the corner as possible;
- (b) At the beginning of turnarounds of culs-de-sac exceeding three hundred feet in length, unless located by the City Administrator at different intervals or at corners to provide better coverage. In no case, however, shall the number of lights provided by the developer exceed the number in subsection (f) below;
- (c) Shall have no greater distance than three hundred feet between them within or abutting the subdivision, unless located by the City Administrator at different intervals or at corners to provide better coverage. In no case, however, shall the number of lights provided by the developer exceed the number in subsection (f) below;

- (d) "Dark sky" compliant streetlights shall be installed in accordance with the DSC;
- (e) Streetlights shall be placed at approximately equal intervals between intersections and shall be subject to the approval of the City Administrator;
- (f) The number of streetlights that are the responsibility of the developer shall be calculated as the total linear footage between street intersections divided by the required spacing of three hundred feet for local and collector streets and as required by the illumination plan for arterial streets. Fractions of streetlights shall be rounded to the next whole number when the fractional amount is equal to or exceeds 0.50. Fractional amounts less than 0.50 shall not require an additional streetlight.

8.2.2 Exceptions. Exceptions or reductions to the streetlight spacing requirements for local streets may be authorized by the P&Z at the request of the developer at the time of plat approval:

- (a) On local streets in existing single-family residential neighborhoods where streetlights are not present or have reduced coverage and have not historically complied;
- (b) On local streets within an approved subdivision where all the lots have a minimum one-half acre lot area and the adjoining properties have reduced streetlighting; or
- (c) Streetlighting shall be provided at all intersections regardless of other exceptions or reductions that may be granted.

8.3 EASEMENTS

Where required, electrical service easements for overhead or underground electrical services shall be provided as a part of the subdivision approval. The service connections and streetlight poles shall be installed by the developer.

8.4 COSTS; DEDICATION

8.4.1 Responsible Party. The subdivision developer shall be responsible for the cost of street lighting materials and installation, including the cost of service lines to supply electricity to the street lights and all engineering costs. Electric energy to power the street lights shall be provided by the electric utility providing service to the area. The City will pay the energy costs of approved and accepted street lights and located in the city limits.

8.4.2 Dedication. Once satisfactorily installed, approved and accepted by the City, the ownership and maintenance of the street lights shall be dedicated to the electric utility serving the area.

SECTION 9. STREET NAMES; SIGNS; ADDRESSES

9.1 APPROVAL OF STREET NAMES

9.1.1 New streets in a subdivision shall be named in a way that will provide continuity of street names and prevent conflict or confusion with existing street names in the City, in the City's extraterritorial jurisdiction or in a neighboring jurisdiction, subject to the approval of the City Administrator for subdivisions located within the city limits, or by the county engineer within the extraterritorial jurisdiction.

9.1.2 Street names and addressing schemes must be submitted by the developer to the City and to the El Paso County 9-1-1 District for review and approval in accordance with this Ordinance and any established guidelines for the naming of streets and creation of addressing schemes. The District

will review for continuity and the prevention of conflict or confusion with existing street names and to ensure that the addressing scheme is appropriate and is compatible with their database. The City or the 9-1-1 District may consult with other entities to review the submission, including the U.S. Postal Service, and any applicable emergency service provider. The City Administrator, county engineer and the 9-1-1 District may require that changes or revisions be made to the street names and addressing scheme in order for approval to be granted. Proposed street names shall be submitted for review along with and as a part of the Preliminary Plat application and shall become fixed at the time of approval of the Preliminary Plat and shown on the Final Plat.

- 9.1.2 On the Final Plat, street names shall not be changed from those that were approved on the Preliminary Plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the City or some other similar eventuality. If additional street names are needed for the Final Plat, then they must be submitted for review and approval by the City and the El Paso County 9-1-1 District, and if needed, the U.S. Postal Service and applicable emergency service providers, along with the Final Plat application.
- 9.1.3 Failure to submit a letter of approval of the street names and addressing scheme from the 9-1-1 District or to resolve any conflicts with street names and addresses with the City and any other entity including the U.S. Postal Service and any applicable emergency service provider shall constitute grounds for denial of the plat.
- 9.1.4 A fee may be established by the City for the changing of street names after approval of the Preliminary Plat.

9.2 SURNAMES; EXISTING AND RESERVED NAMES

Surnames of people or the names of corporations or businesses shall not be used as street names, unless approved by the City Council. The City will maintain a list of existing street names and “reserved” street names that have been approved on a Preliminary Plat and will update the list as new streets are platted.

9.3 NEW STREET NAMES

9.3.1 New street names shall not duplicate existing street names either literally or in a subtle manner (*e.g.*, Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle; Cascade Drive vs. Cascading Drive); shall not be so similar as to cause confusion between names (*e.g.*, Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive); shall not sound like existing street names when spoken (*e.g.*, Oak Drive vs. Doak Drive vs. Cloak Drive; Lantern Way vs. Land Tern Way); and shall not be too difficult to pronounce, have undesirable meanings or connotations or create language translation problems.

9.4 EXISTING STREETS

New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical, unless otherwise approved by City Council.

9.5 INSTALLATION GUIDELINES

9.5.1 Street name signs shall be installed in accordance with the City’s TCSS before issuance of a building permit for any structure on the streets approved within the subdivision.

9.5.2 The developer shall provide the City with documentation evidencing that the street signs were installed.

9.6 ADDRESSES

9.6.1 All addresses must be approved by the City Administrator and the El Paso County 911 District prior to submission of the any plat other than a Preliminary Plat for acceptance. The City Administrator may also require approval from the El Paso Central Appraisal District and the United States Postal Service.

9.6.2 Each lot created must be assigned a distinct address. When the new subdivision is an extension of an existing subdivision, the address sequence shall extend into the new subdivision. New addresses shall progress sequentially along each street in increments of four, with exceptions allowed to maintain an existing sequence between two existing subdivisions or to issue addresses with smaller increments or that include lettering as well as numbering when there are not an adequate number of addresses available to progress sequentially with adding new addresses in an area with officially established addresses by a recorded plat or GIS records and there is no other reasonable alternative available. The block numbers shall follow the existing block plan for the City. Any lot that may be so configured as to have the possibility of either of two sides being a front property line, by way of being on a corner, shall have two addresses assigned. An applicant filing a plat application may be required to change previously existing addresses when that is determined to be necessary by the City Administrator to ensure that all addresses follow the numbering sequence existing in the City.

9.6.3 Addresses shall be assigned as follows:

- (a) New primary addresses assigned to lots on streets that run generally in an east-west direction shall be assigned an address with odd-numbered addresses assigned to the north side of the street and even-numbered addresses assigned to the south side of the street.
- (b) New primary addresses assigned to lots on streets that run generally in a north-south direction shall be assigned an address with the odd-numbered addresses assigned to the west side of the street and even-numbered addresses assigned the east side of the street.
- (c) When proposed streets create a change in direction of greater than forty-five (45) degrees but do not continue into a loop or circle, the sequencing of the addressing shall also change to accommodate the above-mentioned directional sequence. Any proposed street that continues in a loop shall be addressed starting with the closest entrance from a collector or arterial and with the required digit sequence that pertains to the beginning direction and continuing with said same sequence throughout the entirety of the street.

9.6.4 A property not requiring a subdivision shall have frontage on a dedicated public or private street before an official street address may be assigned to it, unless otherwise specifically allowed and provided for elsewhere in this Ordinance. Addresses shall not be assigned to landlocked or illegally subdivided properties.

9.6.5 Address numbers shall be posted in a manner to be clearly visible from the street.

9.6.6 As adjacent territory is annexed into the City, the existing street names and addresses in the newly annexed areas shall be reviewed by the City Administrator and modified as necessary to eliminate duplication of street names already existing within the City, and to ensure that all addresses follow the numbering sequence existing in the City.

SECTION 10. STREET AND ALLEY IMPROVEMENTS

10.1 RESPONSIBILITY OF DEVELOPER

All on-site street improvements shall be constructed by the developer at the developer's expense, unless otherwise allowed by this Ordinance. If the subdivision is adjacent to a planned or future or substandard arterial or collector street, as shown on the City's Transportation Plan, and derives access, whether direct or indirect, from said roadway, then the developer shall be required to design and construct a reasonable portion of the roadway as well as any required median openings and left turn lanes needed to serve his or her subdivision. The City Council may, at its option, accept escrow funds or other security, as described in this Ordinance, in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction or improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

10.2 CONSTRUCTION REQUIREMENTS

10.2.1 All streets and alleys shall be constructed using the materials, products and procedures outlined in the specifications of the TCSS.

10.2.2 The minimum street and alley paving standards are those contained in the TCSS.

10.3 BARRIER-FREE RAMPS

Barrier-free ramps for physically challenged persons shall be constructed at all street corners, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with Section 228 of the Highway Safety Act, as amended, and with the Americans with Disabilities Act (ADA), as amended.

10.4 SIGNS AND BARRICADES

All signs and barricades shall be in conformity with ADA standards, and with specifications for uniform traffic-control devices, as adopted by the City, by El Paso County, by the Texas Department of Transportation, and by the Texas Department of Public Safety, as applicable.

10.5 DRIVEWAY CONNECTIONS

Approval is required prior to the installation of any driveway connecting to a public street. The City Engineer shall approve all driveway cuts. Shared access driveways are encouraged. The minimum distance, as measured from the edge or curb to the edge or curb of driveways (not from the centerlines of the driveways) between driveway openings for multifamily and nonresidential developments shall be as set forth in the TCSS Manual. Driveways shall not be within the transition or stacking portion of a right turn lane, and shall be no closer than one hundred feet (100') to an intersecting thoroughfare or arterial street, as measured from the intersecting street's end of curb radius, and no closer than fifty feet (50') to an intersecting residential or collector street. Residential driveways shall not be allowed on a major roadway (over 60 feet in right-of-way width).

10.6 EXISTING ON-SITE FACILITIES

For a proposed subdivision abutting one or both sides of an existing substandard street, or on a planned or future road as shown on the Transportation Plan, shown as substandard, the developer shall be required to

improve his or her reasonable share of the existing on-site, including appurtenant sidewalks, barrier-free ramps, screening and landscaping, median openings and/or left turn lanes (if a divided thoroughfare), storm drainage structures, water quality or erosion controls, and other utilities, to bring the same to City standards, or to replace it with a standard City street as determined by the traffic impact analysis, if required, at no cost to the City.

10.7 ADJACENT (PERMIETER) STREETS

The developer's share of improvements to a substandard perimeter road shall be 18 feet of pavement, including curb, if any, which is approximately equivalent to half of a collector street width (*i.e.*, two through traffic lanes), along the entire front footage of the subdivision, unless the traffic impact analysis, if required, indicates that some other pavement width is needed to achieve and maintain an acceptable level of service on the roadway. If the subdivision is to be located on both sides of the roadway, 18 feet of pavement shall be constructed by the developer on each side of the road along the entire front footage of the subdivision on each respective side of the road, unless the traffic impact analysis determines otherwise. Design and construction of the roadway shall be in accordance with the City's Transportation Plan, with respect to right-of-way width and general location, the TCSS Manual, and with any other applicable City codes and ordinances. Depending upon the specific roadway in question, and upon the traffic impact analysis results, any oversizing above the 18-foot width shall be borne by the City, the County, the State or other entity. The City Council may, at its option, accept escrow funds, as described in this Ordinance, in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction and improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

10.8 DEAD-ENDS

Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for half the distance across the right-of-way or easement, and shall be further restricted as set forth in this Ordinance. As with any other dead-end street, a note shall be placed on the Final Plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement or right-of-way, and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage size and lettering shall be large enough to be legible by a person with normal vision at a distance of 20 feet.

SECTION 11. ALLEYS; EASEMENTS

11.1 ALLEYS

11.1.1 Alleys are not permitted in residential subdivisions platted after July 25, 2017. Any existing alleys in subdivisions platted and recorded prior to July 25, 2017 may be replatted, or existing alleys in areas developed prior to July 25, 2017 which are included in subdivisions platted after July 25, 2017 shall conform to the requirements for alley construction in this Ordinance and to the alley design standards in this Ordinance unless a waiver is obtained.

11.1.2 Service alleys in nonresidential areas, if provided or constructed by the developer, shall be a minimum right-of-way width of 30 feet and a pavement width of 24 feet.

11.1.3 Residential alleys, if or when permitted in residential areas within the City and its ETJ, shall meet the following standards:

- (a) In residential areas, alleys shall be parallel, or approximately parallel, to the frontage of the street.
- (b) Alleys in residential areas shall provide a minimum of 15 feet of right-of-way and 10 feet of pavement.

11.1.4 General Alley Design Standards

11.1.4.1 Alleys shall be paved in accordance with the City TCSS and construction standards that are in effect at the time the Preliminary Plat or replat application is officially submitted and deemed a complete application.

11.1.4.2 Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the TCSS.

11.1.4.3 Dead-end or “hammerhead” alleys shall not be allowed. Alleys must have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turnaround bulb or turnout onto a street, either of which will need a temporary easement for street or alley purposes, shall be provided as determined by the City Engineer.

11.1.4.4 Alleys may not exceed a maximum length of 1,600 feet, as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets at the right-of-way line of the street at the alley entrance. The P&Z may recommend, and the City Council may approve, waivers for over-length alleys upon consideration of the following:

- (a) Alternative designs which would reduce alley length;
- (b) The effect of over-length alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and
- (c) Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures.

11.1.4.5 Alley intersections shall be perpendicular and at a ninety-degree (90°) angle or radial to the intersecting alley centerline for the full alley right-of-way width, and intersection pavement shall be of sufficient width and inside radius to accommodate waste collection and emergency vehicles. Intersections shall be three-way wherever possible and four-way intersections shall be avoided. No alley intersection serving more than four directions shall be allowed.

11.2 EASEMENTS

11.2.1 The width of easements for utility and service providers, to include for water, sewer, gas, electric, telephone or cable television, shall be as required by that particular entity and an easement used by multiple utility and service providers shall be of such width as required by the provider requiring the greatest width, unless otherwise specifically provided in this Ordinance. The City Engineer is authorized to establish the requirements under this section for a City utility, drainage, or service easement. It shall be the applicant’s responsibility to determine appropriate easement widths required by utility companies and service providers. Wherever possible, easements shall be

centered or along front or side lot lines rather than across the interior or rear of lots, particularly where no alleys will be provided behind the lots.

- 11.2.2 Where a subdivision is traversed by a watercourse, drainageway, arroyo, or channel, there shall be provided a storm drainage easement or right-of-way conforming substantially with the 100-year floodplain of such course and of such additional width as may be designated by the City Engineer, subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the City. Parallel streets or parkways shall be required adjacent to certain portions of creek[s] or drainageways to provide maintenance access and/or public access and visibility into public open space or recreation areas. The number of lots that back or side onto creeks, drainageways, public parks and open spaces, and public-school sites shall be severely limited, and possibly prohibited, such that public access, visibility, safety and security within these areas are maximized. Other utilities may be permitted within a drainage or floodway easement only if approved by the City Engineer and any other applicable entity requiring the drainage or floodway easement.
- 11.2.3 A lot's area shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of required easements, buffer zones and setbacks for each lot. The minimum buildable area shall be an area one-half of the required minimum lot size. If the City disputes the buildable area of any lot, the applicant shall submit verification in writing that the buildable area is adequate for the type of housing product (or nonresidential building) proposed for that lot. Final approval of the allowed buildable area for any lot shall be by the City.
- 11.2.4 Where alleys are not provided in a residential subdivision, a minimum 10-foot wide utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.
- 11.2.5 For new development, all necessary on-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity if other than the City, for which they are being provided. Examples include, but are not limited to, the following: a water, sanitary sewer or drainage easement, which is dedicated to the City or to the LVWD for a water or sanitary sewer line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City and the ESD#2 for fire suppression and emergency medical service access purposes; an electrical, gas, cable TV or telephone easement, which is dedicated to the specific utility provider that requires the easement; and so on.

SECTION 12. SIDEWALKS

12.1 PURPOSE

Sidewalks are required as a part of subdivision plat approval to achieve the following:

- (a) Promote the mobility, health, safety, and welfare of residents, property owners, and visitors to the City and to implement objectives and strategies of the City's Comprehensive Plan;
- (b) Improve the safety of walking by providing separation from motorized transportation and improving travel surfaces for pedestrians;
- (c) Improve public welfare by providing an alternate means of access to transportation and social interaction, especially for children, other citizens without personal vehicles, or those with disabilities;

- (d) Facilitate walking as a means of physical activity recognized as an important provider of health benefits;
- (e) Establish minimum criteria for the development of sidewalks as a part of the pedestrian element of the transportation system within the City and its extraterritorial jurisdiction (ETJ).

12.2 REQUIREMENTS

These requirements shall apply to all development within the City and its ETJ:

- (a) Pedestrian concrete walkways (sidewalks) not less than five feet (5') wide shall be required within a residential subdivision on both sides of collector and arterial streets without open ditch drainage.
- (b) Sidewalks not less than five feet (5') wide shall be provided within all nonresidential developments, as set forth in the TCSS Manual and in applicable state standards.
- (c) Root barriers shall be installed underneath, and along with the construction of, all required sidewalks.
- (d) Barrier-free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the City due to anticipated pedestrian travel patterns.
- (e) Curb ramps shall be provided within a street right-of-way wherever an accessible route for pedestrians (sidewalk or pedestrian way) is required. The design and construction of curb ramps shall be in accordance with the TCSS (DSC) and shall comply with the Texas Accessibility Standards.
- (f) Sidewalks shall be constructed within the street right-of-way, one foot (1') away from the right-of-way line, and at least five feet (5') away from the street curb. In certain instances, the City Council may approve placement of the sidewalk adjacent or closer than five feet (5') to the curb provided that such placement benefits the general public by allowing more space for landscaping, to include for street trees, screening shrubs, and decorative walls and fences, and provided that the width is increased to a minimum of five feet (5') of sidewalk pavement or to such a width as may be needed in the interest of public safety.

12.3 TIMING OF IMPROVEMENTS

12.3.1 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.

12.3.2 The developer may choose to provide security or other form of financial guarantee in accordance with this Ordinance to delay the time of construction of the sidewalk for a two-year term after acceptance by the City. The projected cost of the sidewalk construction shall be the amount of the security which shall be deposited into an escrow fund. The City may utilize the security to complete the sidewalks, landscape and curb ramps.

12.4 ROADWAY ARTERIALS

All sidewalks along a perimeter roadway or arterial are considered part of the overall development's required public improvements and shall be installed prior to acceptance of the subdivision by the City and prior to Final Plat approval, unless security or other form of financial guarantee in accordance with this Ordinance is provided. In any event, a Certificate of Occupancy will not be issued for any lot within the subdivision until the required sidewalks are in place or appropriate security or guarantee is provided.

12.5 ESCROW

The cost and provision of any perimeter sidewalks, to include sidewalks along major thoroughfares, may be escrowed as a part of a developer's agreement if approved by the City Council. The City has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety, convenience or welfare.

SECTION 13. BLOCKS

13.1 LENGTH, WIDTH AND SHAPE

The length, width and shapes of blocks shall be determined with due regard to:

- (a) Provision of adequate building sites suitable to the special needs of the type of use contemplated;
- (b) Zoning requirements as to lot sizes, setbacks and dimensions (if within the City's city limits);
- (c) Needs for convenient access, circulation, control and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site or other facility within or close to the neighborhood; and
- (d) The provisions set forth in subsections 7.19, 7.20, 7.21 and 7.22 and any other applicable provision of this Ordinance.

13.2 INTERSECTING STREETS

Intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices. Where no existing subdivision or topographical constraints control, the block lengths shall not exceed one thousand two hundred feet (1,200') in length. Where no existing subdivision or topographical constraints control, the blocks shall not be less than four hundred feet (400') in length; however, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased (through issuance of a waiver by the City Council with plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

SECTION 14. LOTS

14.1 LOT SIZE REQUIREMENTS

- 14.1.1 Within City Limits. Unless an applicable exception under this Ordinance applies, lots within the city limits shall conform to the minimum requirements of the established zoning district contained in the City's Zoning Ordinance or the EPMTA Zoning Regulations including but not limited to the size, width, depth, shape and orientation of lots, and the minimum building setback lines which shall conform to standards set forth herein or within the appropriate zoning district, as applicable. Lots shall be designed to assure the adequate provision of public facilities and the purpose of this Ordinance, taking into consideration the location and size of the subdivision and the nature of the proposed uses.

14.1.2 In ETJ.

Subdivisions are presumed to be residential developments unless the land is restricted to nonresidential uses on the Final Plat and on all deeds and contracts for deeds, or by restrictive covenants recorded in the office of the county clerk with the Final Plat. In a subdivision in the ETJ where public water and public sewers are provided and on-site ponding is not used, the minimum lot areas shall be six thousand square feet, provided a minimum lot width of fifty feet and a minimum lot depth of ninety feet shall be provided. All plats for residential developments and manufactured home parks shall comply with the minimum standards of this Ordinance.

The minimum lot area for a manufactured home park where public water and public sewers are provided shall be thirty thousand square feet with a minimum lot width of one hundred feet and a minimum lot depth of three hundred feet. In a manufactured home park where individual manufactured spaces are for lease, the minimum manufactured home space area shall be four thousand five hundred square feet with an average space width of forty-five feet and a minimum space depth of one hundred feet. No more than one manufactured home shall be located on each manufactured home space in a manufactured home park. A notation of this restriction shall be placed on the face of the Final Plat of the subdivision.

14.2 FRONTAGE

Each lot on a subdivision plat or otherwise created pursuant to this Ordinance shall front onto a dedicated, improved public street unless platted as an approved private street subdivision in accordance with this Ordinance, or is constructed as may otherwise be permitted by another provision in this Ordinance. Lot width and access shall conform to the provisions of the City Zoning Ordinance or the EPMTA Zoning Regulations (if within the city's limits), comprehensive plan, and any other applicable City ordinance.

Except as provided in this Ordinance, single-family residential lots shall have a minimum of eighty-five (85) feet of frontage and nonresidential lots shall have a minimum of eighty (80) feet of frontage along a dedicated, improved street.

14.3 IRREGULAR SHAPED LOTS

Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the City’s city limits) or as permitted under this Section or other applicable provision of this Ordinance and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when alleys are present (minimum 20-foot alley frontage). In general, triangular, severely elongated or tapered, “flag” or “panhandle” lots (hereafter “panhandle”) shall be discouraged in residential areas except when, due to unique parcel configuration it is the only way to develop the property, and it shall be considered an exception. At or any time before the submission of a Minor Plat, the Preliminary Plat, or the submission of the Master Plat for a commercial development, the request for use of a panhandle lot must specifically be made and it must be based on engineering or other studies. Thus, while this Ordinance allows for the use of a panhandle lot, these regulations are not a substitute for sound engineering judgment and only a licensed engineer may submit a panhandle lot design to be reviewed and considered by the city administrator. Panhandle lots shall also be discouraged in commercial areas except when it is part of a Master Plat created pursuant to Section 3.15 of this Ordinance with cross access easements allowing additional access. The maximum length of a commercial panhandle shall be one hundred feet.

The P&Z and the City Council must specifically authorize the panhandle lot in accordance with this Section at the time of Preliminary Plat approval. Such lots shall otherwise conform to the development standards for construction, and shall be based on the following design requirements:

- (a) All lots and structures shall be arranged to the greatest extent possible, so the structures and their addresses are visible from the street from which the lot takes access. Provided however, where the distance of the building numbering located on the building wall nearest to the panhandle lot entrance is not visible from the street from which the lot takes access, or it is in a location equal to or greater than 200 ft. from the street curb, building numbering shall be located on a freestanding permanent sign with a face that is of such size that it is not less than 3 square feet nor more than six square feet, which shall be positioned so that the building numbering shall be located not less than 15 ft. nor more than 50 ft. from the street curb. In the event that the Sign Ordinance of the City provides for a different size of such permanent sign, the provisions of the Sign Ordinance shall control. The numbering shall be sized in accordance with this Ordinance or any other applicable the Ordinance of the City. The city administrator may grant exceptions to the requirements for the sign placement when such exceptions are made to allow for greater or more appropriate visibility of the numbering.
- (b) Residential Uses. The minimum width of the panhandle shall be twelve feet to serve one dwelling unit. Two or more dwelling units may jointly use a shared driveway located on a panhandle, provided that the minimum width of the panhandle is twenty-four feet for such use by two or more dwelling units. The shared driveway(s) shall be designated on the plat and shall comply with the standards set forth under the definition for *Shared Driveway* in Section 2 of this Ordinance.

The City reserves the right to disapprove any lot which will not be suitable or desirable for the purpose intended, which is an obvious attempt to circumvent the purpose and intent of lot configuration or lot width minimums, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties.

14.4 SIDE LOTS

Side lot lines shall be at ninety-degree (90°) angles or radial to street right-of-way lines to the greatest extent possible. The City reserves the right to disapprove any lot which is shaped or oriented in such a fashion as to be unsuitable or undesirable for the purpose intended, or which is not attractively or appropriately oriented toward its street frontage.

14.5 DOUBLE FRONTAGE

Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials or to overcome a specific disadvantage or hardship imposed by topography or other factors. Where lots have double frontage, building setback lines shall be established for each street side, and rear yard screening shall be provided. Residential lots shall not back onto any residential street or collector street within a residential area or neighborhood and shall not have more than one-half (1/2) of its perimeter boundaries along streets.

SECTION 15. BUILDING LINES

15.1 MINIMUM BUILDING SETBACK LINES

- 15.1.1 Front, rear, side and street side building lines shall be shown on any type of plat for all lots. Unless an applicable exception under this Ordinance applies, all lots shall be consistent with the Zoning

Ordinance or the EPMTHA Zoning Regulations requirements for the district in which the development is located (if subject to the City's zoning regulations) and with any other applicable City ordinance, respectively.

15.1.2 Notwithstanding any provision in the Zoning Ordinance or the EPMTHA Zoning Regulations, unless an applicable exception under this Ordinance applies, the minimum building setback from lot boundaries adjacent to the following street rights-of-way shall be:

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

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

The requirements in this section shall supersede any different provisions contained in the Zoning Ordinance or the EPMTHA Zoning Regulations and it is intended that this provision is controlling.

15.1.3 For property that is not subject to the City's zoning regulations, such as property within the City's ETJ, the minimum front building line for residential and nonresidential lots shall be thirty feet (30'), the minimum side building lines for residential and nonresidential lots shall be ten feet (10'), and the minimum rear building lines for residential and nonresidential lots shall be twenty-five feet (25').

SECTION 16. UTILITIES

16.1 DEFINITIONS

For purposes of this section, the following meanings shall apply:

"Utility services" - The facilities of any person, firm or corporation providing electric, natural gas, telephone, cable television, or any other such item or service for public use approved but not provided by the City.

"Feeder or feeder/lateral line" - High voltage supply electric lines carrying more than 12,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.

"Lateral lines" - Electric, telephone or cable lines used to distribute the service from a feeder line to a single subdivision. These lines are normally connected to a feeder line through a sectionalizing device such as a fuse.

"Service lines" - Electric, telephone or cable lines used to connect between the utilities' supply system or lateral lines and the end user's meter box.

16.2 PROVISION FOR UTILITY AND SIMILAR SERVICES

16.2.1 Underground Placement. All major subdivision plats and engineering plans submitted to the City for approval shall provide for the underground placement of utility services such as electrical, gas, telephone and cable television utility lines, including lateral and service distribution lines and wires. Feeder and major transmission lines may remain overhead within the appropriate easements. However, when the City Engineer and the City Administrator determine that there exists sufficient space or easements and the infrastructure may be modified appropriately, the City may require that feeder lines are placed away from major or minor thoroughfares or arterials, as shown on the Transportation Plan. Unless authorized by the City Administrator, City Engineer and utility

company, feeder lines which are to be placed overhead shall not be placed along both sides of the street right-of-way.

16.2.2 Easements. Verification of acceptance of easement locations and widths by the public utilities and by the appropriate publicly certified water system (*i.e.* LVWD) shall be provided to the City, by the applicant, prior to Final Plat approval by the City Council, and all easements shall be reviewed by the utility companies and by the City Engineer (for those to the City) prior to granting final approval for any residential subdivision affected by this section.

16.2.3 Letter of Commitment. The applicant shall also, prior to Final Plat approval, provide a Letter of Commitment from each of the applicable utility service provider, and the appropriate publicly certified water system (*i.e.* LVWD), and providers of gas, electricity, telephone, cable TV and solid waste, who will serve the development that said providers will ensure the provision of necessary infrastructure and service to all portions of the proposed development within twelve (12) months following Final Plat approval. Failure to submit such Letters of Commitment from the providers shall constitute grounds for denial of the Final Plat application on the basis that there is no written assurance that the development can be served by essential utility and other services.

16.3 UTILITY COMPANY AND SERVICE PROVIDER CRITERIA

Each of the utility companies and the appropriate publicly certified water system (*i.e.* LVWD) shall be responsible for developing administrative policies, criteria for easement size, and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the property owner in accordance with the provisions of such utility's approved tariff. No utility company shall be required or permitted to begin construction of underground facilities unless and until the property owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities.

16.4 TEMPORARY CONSTRUCTION SERVICE

Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver or special exception, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.

16.5 EXISTING FACILITIES UNDERGROUND

Nothing in this section shall be construed to require any existing facilities in place prior to July 25, 2017 to be placed underground.

16.6 METER PLACEMENT

The metering for utilities such as gas and electricity and for water shall be located on the individual lots to be served, not grouped together in a centralized location(s), such as "gang-box" style metering stations, which shall not be permitted.

16.7 EASEMENTS

The locations, widths and configurations of easements for any service provider other than the City shall be determined, approved and acquired (if necessary) by the applicable service provider.

16.8 EASE OF ACCESS

Services for utilities, water and wastewater shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structures when connections are made.

SECTION 17. WATER, WASTEWATER, STORMWATER

17.1 PLAT APPROVAL

No Final Plat shall be approved for any subdivision within the City or its ETJ until the applicant has made adequate provision for a public water system and a public sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots, individually or collectively, within the area to be subdivided. The design and construction of the public water system and of the public sanitary sewer system to serve the subdivision shall be in conformance with the standards and regulations of the City, the LVWD and the TCSS, and shall be approved by the City Engineer. The Final Plat shall be accompanied by an engineering report regarding the availability and methodology of providing wastewater treatment service prepared, meeting the requirements of the DSC, and bearing the signed and dated seal of a professional engineer registered in the State of Texas.

17.2 WATER

17.2.1 Public Water Supply. Public water supply for all new subdivisions shall be connected with the appropriate publicly certified water system (*i.e.*, LVWD), shall have RPZ backflow prevention installed, and shall be capable of providing water for health and emergency purposes, including fire protection. Where the LVWD's water distribution system is not planned to be extended, all necessary water facilities shall be provided by and at the expense of the developer.

17.2.2 Individual Wells. Individual wells within the corporate city limits shall be discouraged. Individual wells may be used for irrigation purposes only and in accordance with the rules of TCEQ, El Paso County and the water district, whichever is the most stringent.

17.2.3 Alternative Water Sources. Alternative sources of water for uses other than drinking, such as rainwater collection systems, are highly encouraged. An alternative source of water for uses other than public drinking may be used subject to City approval and provided that all appropriate permits are procured from the City, the U.S. Army Corps of Engineers, the TCEQ, USFWS, the LVWD, and any other applicable agency(s).

17.2.4 Minimum Standards. A water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate and safe domestic water supply and to furnish fire protection to all lots shall be provided. Water lines shall extend to the property line in order to allow future connections into adjacent undeveloped property, and a box for the water meter(s) for each lot shall

be installed either in the right-of-way or immediately adjacent to the right-of-way in a water meter easement.

17.2.5 Design Standards. The design and construction of water system improvements and alternative water sources shall comply with the following standards:

- (a) Design and construction of water service shall be in accordance with the standards in the City's TCSS Manual, and in accordance with TCEQ, El Paso County, and the LVWD, whichever is the most stringent requirement.
- (b) Design and construction of an alternative water source on the site shall be in accordance with applicable regulations of the USFWS, TCEQ, El Paso County, and the LVWD, whichever is the most stringent requirement.
- (c) Design and construction of a fire protection and suppression system shall be in accordance with the standards in the TCSS Manual, and in accordance with the ESD#2's applicable Fire Code.

17.2.6 Upon certification that municipal water extensions and associated facilities have been completed in conformance with applicable standards and specifications, such extensions and facilities shall be dedicated to and accepted by LVWD.

17.3 WASTEWATER

17.3.1 Wastewater System. Wastewater treatment for all new subdivisions shall be served by an appropriate public wastewater collection and treatment system (*i.e.*, LVWD). The design and construction of the wastewater system improvements shall be in accordance with the standards in the City's TCSS Manual, and in accordance with TCEQ, El Paso County, and the LVWD, whichever is the most stringent requirement. The developer shall install and pay for all municipal wastewater extensions and associated facilities in accordance with all standards required by this title, the LVWD rules and regulations and all City ordinances,

17.3.2 Requirements. The applicant shall be responsible for:

- (a) Phasing of development or improvements in order to maintain adequate water and wastewater services;
- (b) Extensions of utility, water, and wastewater lines to connect to existing water and wastewater services;
- (c) Providing and/or procuring all necessary easements for the water and wastewater services (whether on-site or off-site);
- (d) Providing proof to the City of adequate water and wastewater service;
- (e) Providing provisions for future expansion of water and wastewater services if such will be needed to serve future developments, subject to the City's oversize participation policies, if applicable;
- (f) Providing all operations and maintenance of the water and wastewater services, or providing proof that a separate entity will be responsible for the operations and maintenance of the water and wastewater services;
- (g) Providing all fiscal security required for the construction of the water and wastewater services;
- (h) Obtaining approvals from the applicable providers if other than the City; and
- (i) Complying with all requirements of the providers, including the City;
- (j) Record drawings; and
- (k) Replacing lines in order to comply with the water and wastewater master plans and design standards.

17.3.3 Installation. All lines and facilities shall be installed within a public right-of-way or easement designated for utility or water and wastewater access.

- 17.3.4 Extensions. Extension of water and wastewater lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of water and wastewater lines shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the City Council may waive the requirement for adjacent water and wastewater line construction at the time of Preliminary Plat approval and prior to construction of the subdivision.
- 17.3.5 Other Wastewater Utilities. Installation, operations and maintenance of water and wastewater services or utilities not specifically referenced herein shall comply with regulations of the USFWS, TCEQ, El Paso County, and the LVWD standards, and with any other applicable State rules and regulations, whichever is the most stringent requirement.
- 17.3.6 Dedication. Upon certification that the water and wastewater extensions and associated facilities have been completed in accordance with applicable standards and specifications, such extensions and facilities shall be dedicated to the LVWD.

17.4 STORMWATER AND DRAINAGE SYSTEMS

- 17.4.1 System Required. No subdivision shall be approved which does not make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by such methods as are approved by the City Engineer. Inlets shall be provided so that surface water is not carried across or around any intersection, or for a distance of more than six hundred feet (600') in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point.
- 17.4.2 System Design Requirements. Drainage improvements shall accommodate runoff from the upstream drainage area in its anticipated maximum "build-out" condition and shall be designed to prevent overloading the capacity of the downstream drainage system. The use of park areas as drainage ponds is not permitted. The City may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. Any stormwater collection system constructed shall be designed in accordance with the City's TCSS Manual and the Drainage Design Manual by a licensed professional engineer, shall be reviewed and approved by the City Engineer, and shall also be in accordance with the City of San Elizario Flood Damage Prevention Ordinance, or the El Paso County Flood Damage Prevention Ordinance, as applicable. All plans submitted to the City Engineer for approval shall include a layout of the drainage system together with supporting calculations for the design of the system. In the case of a conflict between the provisions in the TCSS Manual and the Drainage Design Manual, the provisions in the TCSS Manual shall control as determined by the City Engineer.
- 17.4.3 Controls. All erosion and sedimentation controls shall conform to the TCSS Manual and the Drainage Design Standards.
- 17.4.4 Study Required for Rerouting. No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining written permission of the City Engineer and any other applicable agency (such as FEMA, the U.S. Army Corps of Engineers, the El Paso County Water Improvement District #1 or the LVWD) having jurisdiction. The City Engineer may, at his or her

discretion, require preparation and submission of a FEMA or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.

- 17.4.5 Natural Layout. In order to help reduce stormwater runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.
- 17.4.6 Drainage Flow. No cross-street flow (*i.e.*, perpendicular to traffic flow) of stormwater runoff shall be permitted unless approved by the City Engineer. When and if such drainage flow is allowed, it must be across a concrete street (*i.e.*, valley gutter) and as approved by the City Engineer.
- 17.4.7 Design and Construction. All stormwater retention or detention facilities (e.g. basins) shall be designed and constructed using materials and techniques as established in the City's TCSS Manual and the Drainage Design Standards or as may be required by the City Engineer.
- 17.4.8 Storm Sewer System. An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of stormwater and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent stormwater retention, such as standing or pooling water, as established by the City Engineer, will not be considered for development until adequate drainage has been provided.
- 17.4.9 Nature of Storm Water Facilities.
- (a) Criteria. The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to this Ordinance. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways.
 - (b) Location. The developer shall be required by the City Engineer to carry away by pipe or open ditch and spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with City's TCSS Manual and the Drainage Design Standards.
 - (c) Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream area, whether inside or outside the subdivision. The City Engineer shall determine the necessary size of the facility, based on the provisions of the City's TCSS Manual and the Drainage Design Standards and specifications assuming conditions of maximum potential watershed development.
 - (d) Effect on Downstream Drainage Areas. The City Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Drainage studies by the City, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the P&Z and the City Council shall withhold approval of the subdivision until

provision has been made for the improvement of said potential condition. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

- (e) Areas of Poor Drainage. The subdivision of an area which is subject to flooding may be approved by the City provided that the developer fills the affected area of said subdivision to an elevation sufficient to place the elevation of streets and finish floor elevation of structures at a minimum of twelve inches (12") about the elevation of the maximum probable flood. Any modifications must be in accord with any proposed sewage disposal plan for the area.

17.4.10 Dedication of Drainage Easements. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose. Whenever possible, it is desirable that the drainage be maintained by an open channel and adequate width for maximum potential area of flow.

(a) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least fifteen feet (15') in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to a road. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

(b) When the proposed subdivision drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured. Stormwater drainage from one lot onto another shall not be allowed unless such does not pose any harm or inconvenience to the downstream lot(s) and such drainage has been reviewed and approved by the City Engineer.

(c) The developer shall dedicate, either in fee or by drainage easement, land on both sides of existing watercourses to a distance to be determined by the City Engineer.

17.4.11 Proper Operating Function. The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, with the exception of back-lot and side-lot drainage swales, at the eleventh (11th) month of the second year for the required two-year maintenance bond for the applicable facilities. The City shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

17.5 REUSE OF EFFLUENT

The City may enact programs to encourage or reward the reuse of effluent by individual property owners on residential tracts. Any proposal for sewage collection, treatment and disposal which includes reclaimed water reuse shall meet the minimum criteria of the Texas Administrative Code (TAC).

SECTION 18. PUBLIC SITES AND OPEN SPACES

18.1 AREAS FOR PUBLIC USE

The applicant shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or service so as to conform with the recommendations contained in the City's Comprehensive Plan, Park and Open Space Plan, and other applicable plans. Any provision for schools, parks or other public facilities shall be indicated on the Preliminary Plat and Final Plat and shall be subject to approval by City Council.

18.2 PROTECTION OF DRAINAGE AND CREEK AREAS

18.2.1 Preservation. All creeks, arroyos, irrigation canal systems, low-lying lands along watercourses subject to flooding or overflowing during storm periods, and other drainage areas shall be preserved and protected in their natural condition wherever possible, unless significant storm drainage improvements are required by the City or the El Paso County Water Improvement District #1 in these areas. All development adjacent to creeks, arroyos and drainage areas shall be in accordance with the City's TCSS Manual, and with any other City policies or ordinances related to aesthetics or public access or enjoyment of creeks, arroyos and waterways.

18.2.1.1 No individual, partnership, firm or corporation shall deepen, widen, fill, reroute or change the course or location of any existing creek, arroyo, irrigation canal system or other drainage way, without first obtaining written permission of the City and any other agency having jurisdiction.

18.2.2 Floodway Management Area (FMA). The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of floodplain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe area cannot be reclaimed (elevated, infilled) for development. For exceptions to this, refer to the City's Flood Damage Prevention Ordinance.

18.2.3 Definition. For the purposes of this section, the Floodway Management Area will correspond to the floodway, as defined by FEMA, or as may be modified pursuant to a flood study that is approved by FEMA.

18.2.4 Areas Where a FMA is Required. All drainage areas or regulated floodways as referenced on the applicable floodway and flood boundary map (*e.g.*, Flood Insurance Rate Map, or FIRM) shall be included in the FMA. If FEMA does not specify a floodway zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The determination shall be made by a licensed professional engineer and approved by the City Engineer. Where improvements to a drainage area are required by other ordinances of the City for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition. The creek shall remain in its natural state unless improvements are permitted or required by the City due to the pending development of properties adjacent to or upstream of the required improvements.

18.2.5 Ownership & Maintenance of the FMA. The area determined to be the FMA shall be designated on both the Preliminary Plat and Final Plat. Approximate locations shall be shown on zoning change requests. Accurate locations of the FMA shall be established on the Preliminary Plat and Final Plat prior to site construction. At the City's option, the FMA shall be protected by one of the following methods:

- (a) Dedicated to the City of San Elizario; or
- (b) Easement(s). Creeks, arroyos or drainageways on tracts which have private maintenance provisions, other than single-family or two-family platted lots, can be designated as the FMAs by an easement to the City on the Preliminary Plat with the appropriate plat language, as required by the City. Subdivisions with platted single-family or two-family lots may designate the FMA by easement provided there are adequate access and maintenance provisions (such as by a mandatory homeowners association), but no lots or portions of lots may be platted in the easement portion required for access unless specifically allowed by the City Engineer. The area designated as FMA may be identified by a tract number; or
- (c) Certain recreational uses normally associated with or adjacent to flood-prone areas such as golf courses or certain types of parks, excluding structures, in the FMA. The uses allowed shall be in conformance with the Zoning Ordinance, the EPMTA Zoning Regulations and the Parkland Dedication Ordinance, and shall be approved by the P&Z and City Council.

Prior to acceptance of any drainageway as a FMA by the City, the area shall be cleared of all debris and brush, except for mature trees, and placed in a maintainable state. Floodway management areas dedicated to the City shall be left in a natural state except those areas designated for active recreational purposes and unless storm drainage requirements do not permit this to occur.

18.2.6 Design Criteria. The following design criteria shall be required for development adjacent to the FMA:

- (a) Adequate access shall be provided to and along the FMA for public and/or private maintenance. An unobstructed area a minimum of twenty feet (20') wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway, shall be provided adjacent to or within the FMA. On the opposite side of the drainage area, an unobstructed area having a minimum width of five feet (5') shall be provided.
- (b) Lots in a single-family or duplex residential zoning district shall not be platted within the FMA, and no more than ten percent (10%) of the linear length of the FMA on each side shall be allowed to have lots backing or siding onto it. If lots back or side onto an FMA, at least two (2) reasonable points of access to the FMA, each a minimum of twenty feet (20') in width, shall be provided. Streets, alleys and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles (*e.g.*, alleys must be twenty-foot width). All areas of the FMA shall be accessible from the access points and shall be visible from access points. Lots used for multifamily dwellings may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents, provided that access to the FMA is possible by City maintenance vehicles, should that need arise. If the FMA is to be public park land, then adequate public access and good public visibility shall also be provided to all portions of it.
- (c) Public streets may be approved in the FMA by the P&Z and City Council if they conform to applicable engineering standards.
- (d) Linear public streets may be required to be constructed adjacent to some or all portions of the FMA to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.
- (e) Alternate designs to facilitate equal or better access may be permitted if approved by the P&Z and City Council.

- 18.2.7 Drainage areas which have been altered and are not in a natural condition can be exempted from a FMA and this section at the discretion of the City Council and upon recommendation by the P&Z.
- 18.2.8 No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream or drainageway, without first obtaining written permission of the City and any other agency having jurisdiction.

18.3 PROPERTY OWNERS OR HOMEOWNERS ASSOCIATIONS

- 18.3.1 Applicability. When a subdivision contains either common open space or other improvements which are not intended to be dedicated to the City for public use, such as private streets, a private recreation facility, landscaped entry features or other private amenities, a property owners or homeowners association agreement consistent with State and other appropriate laws, must be submitted to and approved by the City Administrator and the City Attorney. The Conditions, Covenants and Restrictions (CCRs) and the association documents, such as the articles of incorporation and association bylaws, shall be submitted to the City for review and approval along with the Final Plat application, and shall be filed of record at the County simultaneously with the Final Plat in order to ensure that there is an entity in place for long-term maintenance of these improvements. Said documents must, at a minimum, include provisions which allow the City, at its discretion, to take over the maintenance of common property, including but not limited to private streets and private recreation facilities, using association funds, if such action becomes necessary due to nonperformance or inaction by the association or if the association goes defunct. Provisions shall also be included which would, in the latter instance, convey ownership of the private streets, if any, and all other common areas to the City, and which would allow the City to remove any improvements or amenities from the common areas and sell any buildable land area, as residential lots, to recoup the City's expenses for maintenance or demolition of the improvements. Any monies that remain after the City has recovered all of its expenses shall be retained for future maintenance or upgrading of the streets, common areas, if any remain, screening walls, or other improvements within the subdivision. These provisions are not intended to allow the City to profit in any way from taking over the association's responsibilities or funds. They are only intended to allow the City to recoup its actual incurred expenses such that the general public, the taxpayers of the City, does not have to bear these costs.
- 18.3.2 The City is not responsible (*i.e.*, has no jurisdiction) for enforcing protective covenants or deed restrictions imposed by a property owners or homeowners association.

18.4 PARKLAND AND PUBLIC FACILITY DEDICATION

- 18.4.1 Purpose. It is declared by the City Council that recreation areas in the form of neighborhood parks, community parks that serve several neighborhoods, linear parks, trails, and open space areas are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the City, whether such development consists of new construction on vacant land or the addition of new construction or redevelopment on existing developed lands.
- 18.4.1 Sites. The applicant shall give consideration to suitable sites for parks, playgrounds and other areas for public use so as to conform with the recommendations of any City Park and Open Space Plan. Any provision for parks and public open space areas shall be indicated on the preliminary and Final Plat, and shall be subject to approval and acceptance by the City Council.

18.4.2 Dedication or Fee-in-lieu of. Applicants shall dedicate parkland, or render money in lieu of land donations, in accordance with the City's Parkland Dedication Ordinance, as amended.

18.4.3 Improvements. The developer shall improve all dedicated public parkland with improvements as provided in the City's Parkland Dedication Ordinance. Improvements must be completed within two years of the Final Plat approval by the City Council. If the improvements are deemed impractical or undesired, funds required for improvements under the performance bond shall be deposited in the City's parkland fund for use of the City's future capital needs for recreational facilities.

18.4.4 Design Standards. The City's Design and Construction Standards for Park Facilities shall apply to the design, construction and maintenance of parkland improvements. The use of park areas as drainage ponds is not permitted.

SECTION 19. MONUMENTS

19.1 PLACEMENT

In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than one-half inch (1/2") in diameter and eighteen inches (18") deep, and set flush with the top of the ground. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half inch (1/2") and eighteen inches (18") deep, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block corners shall be installed prior to the final review of the subdivision by the City. Lot corners shall be installed prior to issuance of a building permit. The design and installation of concrete monuments shall be in accordance with the City's TCSS.

19.2 MINIMUM

A subdivision shall have at least two (2) concrete monuments set by the surveyor, if not already existing, for two corners of the subdivision, and such concrete monuments shall be located at opposite ends or at widely separated corners of the subdivision and clearly shown on the Final Plat prior to filing at the County. The Final Plat shall also show clear ties to existing concrete monuments in the vicinity of the subdivision.

SECTION 20. RETAINING WALL CRITERIA

20.1 REQUIREMENTS

In general, the use of retaining walls shall be minimized, wherever possible, through minimal and balanced cut and fill on property. When property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5') and the slope exceeds one unit vertical to two units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:

- Location A. The grade change roughly follows a side or rear lot line.
- Location B. The grade change is adjacent to a proposed building site boundary.
- Location C. The grade change is adjacent to a watercourse or drainage easement.

20.2 DESIGN AND CONSTRUCTION

All retaining wall design and construction shall be in compliance with the provisions of the Building Code and the TCSS of the City, and shall be approved by the City Engineer.

20.3 MAINTENANCE

Retaining walls shall be maintained by the owner of the property whereon such retaining wall is located.

20.4 EASEMENTS

Retaining walls shall not be constructed within any portion of a public utility, water, wastewater, drainage, or right-of-way easement, unless approved by the City Engineer and properly permitted by the City.

SECTION 21. FIRE PROTECTION

21.1 REQUIREMENTS ,

21.1.1 Placement. Fire protection shall be provided in accordance with this Ordinance, with the ESD#2's applicable Fire Code, the City's TCSS Manual, and with any other City policy or ordinance pertaining to fire protection or suppression. The Fire Chief shall have the authority to approve the locations and placement of all fire hydrants and fire lanes and the Chief may, at the Chief's discretion, modify fire hydrant spacing or fire lane placement based upon special design or distance circumstances.

21.1.2 Fire Lanes. All required fire lanes shall be shown as "fire lane easements" on the construction and Final Plats, along with the applicable fire lane language block. Vertical construction (*i.e.*, any building construction above foundation/slab level) shall not commence until all required fire lanes are properly installed and accepted by the City, nor until all fire hydrants have been installed, inspected, tested and accepted by the City or the ESD#2.

21.1.3 Installation of Water Facilities. The developer shall install adequate water facilities, including fire hydrants, in accordance with the current rules and regulations for public water systems of the TCEQ, the rules and regulations of the LVWD and the ESD#2, the firefighting standards of the Texas Board of Insurance, and the standards and specifications of the City.

SECTION 22. WAIVERS

22.1 PRESUMPTION

There shall be a presumption against waivers.

22.2 FINDINGS REQUIRED

Where the City's P&Z recommends, and the City Council finds, that undue hardships will result from strict compliance with a minimum standard provision(s) of this Ordinance, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, the City Council may approve a

waiver from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the waiver shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the City Council shall not approve a waiver unless it shall make findings based upon the evidence presented to it in each specific case that:

- (a) Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
- (b) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable generally to other property;
- (c) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
- (d) The waiver will not in any manner vary the provisions of the Zoning Ordinance, the EPMTA Zoning Regulations or Comprehensive Plan, or any other adopted plan(s) or ordinance(s) of the City;
- (e) Public roads and easements are sufficient and adequate to service the subdivision, and the waiver for the subdivision will not adversely impact the sufficiency and adequacy of any public roads or easements;
- (f) The waiver will not be detrimental to proper drainage;
- (g) The waiver will not be detrimental to emergency vehicle response time, vehicular access, and pedestrian passage; and
- (h) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which a waiver is considered. A waiver from any provision of this Ordinance may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary or financial hardship to the applicant, property owner or developer, standing alone, shall not be deemed sufficient to constitute undue hardship.

22.3 PROCEDURES

22.3.1 The applicant shall file a petition for a waiver prior to the filing of any plat application. The filing of a plat application prior to the determination on the petition for a waiver, waives any and all right or privilege an applicant may have to request a waiver.

22.3.1.1 The petition for a waiver shall be submitted in writing by the property owner. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. No vested rights accrue solely from the filing of an application for a waiver.

22.3.1.2 Where a hardship is identified which requires issuance of a waiver from a provision in this Ordinance, a request for a conditional (or temporary) waiver may be submitted. The P&Z may recommend a waiver and the City Council may grant such waiver from that provision in this Ordinance.

22.3.2 The application shall be submitted to the P&Z for review and recommendation to the City Council as expeditiously as possible. The P&Z shall utilize the criteria for required findings in subsection 22.2 in making its recommendation.

22.3.2 The City Council shall make the final approval or disapproval of the request for a waiver.

SECTION 23 - 29. RESERVED FOR EXPANSION

ARTICLE V. FEES; ENFORCEMENT; PENALTIES

SECTION 30. FILING FEES; PLAT RESUBMISSION

30.1 FEE SCHEDULE

- 30.1.1 Fee Schedule. Fees and charges, as well as other application and submission requirements, for the submission of applications for the approval of any type of plat and for engineering review and construction observation shall be as provided by separate ordinance and may be amended from time to time. It is the applicant's responsibility to obtain and comply with the adopted fee schedule and submission requirements.
- 30.1.2 Fee Collection. The City shall impose and collect such fees and charges on all applications for approval of any type of plat, regardless of the action taken by the P&Z and City Council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical, engineering, planning and review services necessary to properly review and investigate plats and subdivision construction. The cost incurred by the City to retain professionals to perform necessary development review, including but not limited to, the City Attorney and City Engineer, may be charged directly to the applicant for the actual cost of said professional services.
- 30.1.3 Fee Payments. All required fees, unless specifically stated otherwise herein, shall be paid as required in this Ordinance. Inspection fees may be paid at the time the actual inspection is made of the project.

30.2 CESSATION OF PENDING STATUS

Should a development proposal or plat application lapse or expire, or should it be denied by the P&Z or the City Council, then that application ceases "pending" status and the project, and its corresponding series of development approvals and permits, shall be deemed to be ended, or "completed". Any reapplication for any type of development approval for that property shall be considered commencement of a new project, and shall be accompanied by new application materials, including new application fees, and shall conform to all applicable City ordinances in effect at the time of submission of the new application.

SECTION 31. VIOLATION; PENALTIES; ENFORCEMENT

31.1 VIOLATION

- 31.1.1 It shall be unlawful to violate the terms, conditions or regulations enacted in this Ordinance.
- 31.1.2 An offense under this Ordinance is a misdemeanor.

31.2 ENFORCEMENT.

31.2.1 Actions. In the event of a violation of this Ordinance, the City Administrator shall institute any appropriate action to put an end to such violation.

31.2.2 Right of Entry. Upon presentation of proper credentials at the request of the land occupier or owner, the City Administrator may enter upon any property, vacant lots, or premises in the City to perform any duty imposed by this Ordinance.

31.2.3 Stop Work. The City Administrator or Building Official may issue a Stop Work Order to immediately halt work on a property that is in violation of this Ordinance.

31.2.3.1 Notice shall be given before the order shall be effective, except when the order states that it is effective immediately as being necessary to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by person issuing the stop work order to proceed with the work. This prohibition shall extend throughout any appeal period.

31.2.3.2 The owner or authorized agent may appeal the stop work order by giving written notice to the City Administrator and submitting a completed form as may be required by the City. The P&Z consider the appeal within fifteen (15) days after the date the completed application for appeal is received by the P&Z which shall reach a decision without unreasonable or unnecessary delay. A copy of the decision shall be delivered by certified mail or personal delivery to the applicant. The decision of the P&Z shall be final, but as may be provided by law, be adjudicated in a court of competent jurisdiction.

31.2.3.3 Such order may permit limited work to occur that is necessary to stabilize and secure the site. The City Administrator may require the placement of temporary erosion control, drainage protection or other measures by the owner or appellant in order to protect the site and the community resources during the appeal period or any subsequent litigation.

31.2.2.4 The application for each appeal must be signed and be accompanied by payment of the nonrefundable application fee in accordance with the adopted fee schedule.

31.3 PENALTIES

31.3.1 Civil and Criminal Penalties. The City shall have the power to administer and enforce the provisions of this Ordinance and to seek civil and criminal penalties. A person violating this Ordinance is subject to the following:

(a) Criminal Prosecution. A person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$500.00. Each day that a provision of this Ordinance is violated shall constitute a separate offense. In prosecutions, it shall not be necessary to allege or prove a culpable mental state.

(b) Civil Remedies. Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance, and to seek remedies as allowed by law including, but not limited to, the following:

- (i) Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance;
- (ii) A civil penalty up to one thousand dollars (\$1,000.00) a day, with each day constituting a separate offense and separate violation, when it is shown that the defendant was actually notified of the provisions of the ordinance and after receiving notice committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance; and
- (iii) Other available relief, including, but not limited to, action taken by the City in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a building structure or premises.

31.3.2 Legal Fees and Costs. In any civil or criminal action commenced by the City under this Ordinance, the City shall be entitled to recover from the defendant reasonable attorney's fees, costs of suit, and any other costs of enforcement.

APPENDICES

(Following.)

- APPENDIX A. LETTER OF CREDIT
- APPENDIX B. PERFORMANCE BOND
- APPENDIX C. PLAT CERTIFICATION

APPENDIX A. LETTER OF CREDIT

Date: _____

To: City of San Elizario, Texas
San Elizario, Texas

Dear Mayor:

We, _____, have established this date a commitment to lend sums not exceeding in the aggregate total amount of _____ Dollars (\$_____) to our customer(s) _____, who reside at _____, hereinafter known as "Customer(s)," being the costs estimated by the City of San Elizario, Texas, for construction of all roads and/or streets and drainage facilities in connection with the development of the subdivision known as _____, provided, however, that the total sum stated above shall be subject to reductions as follows:

At such time as the above described construction is completed in accordance with the City of San Elizario's specifications for roads and/or streets and drainage facilities in subdivisions as currently adopted by the City of San Elizario, Texas, and in effect on the date of this instrument, said completion being evidenced by a release of construction security signed by the Mayor, the commitment evidenced hereby shall be reduced by 90 percent. However, ten percent of the total commitment amount shall stay in effect until the expiration of this Letter of Credit to insure that the Customer(s) will and faithfully do perform the maintenance for a period of two years on all roads and/or streets for which security has been provided and which are constructed in accordance with the specifications for roads and/or streets, such maintenance to begin after approval of construction by the City Inspector/Planner and on the date of release of construction security by the City of San Elizario, Texas.

This commitment is made with the understanding that only the City of San Elizario, Texas, can draw any part of the total amount stated hereinabove, subject to the terms and conditions hereof, if necessary to provide for the construction and maintenance of said roads and/or streets and drainage facilities, and recovery on this Letter of Credit shall not be limited or exhausted by one or more recoveries less than the total amount of the Letter of Credit.

We also understand and agree that the only requirement necessary for drawing any part or all of the total amount of this Letter of Credit is receipt by us, at least ten days in advance of the date on which funds are requested, a letter requesting from the City of San Elizario, Texas, signed by the Mayor, stating that one or more of the following conditions exist:

Condition One: The construction of said roads and/or streets and drainage facilities, has not been completed within two years from the date of this credit, and the failure to complete such is not due to weather, acts of God, strikes, or other reasons beyond the Customers' control, and due diligence is not then being used by the Customers in effort to complete said construction;

Condition Two: The City of San Elizario, Texas, has given written notice, return receipt requested, at least 30 days prior to the expiration of the Letter of Credit, to the Customers' above stated address, that the said roads and/or streets and drainage facilities have not or are not being constructed in conformity with City specifications and the Customers have not corrected such deficiency, such failure to act not being due to weather, acts of God, strikes, or other reasons beyond the Customers' control, and due diligence has not been used in efforts to correct the deficiency;

Condition Three: The City has given written notice, at least 30 days prior to the expiration of this Letter of Credit, to us and our Customers, at our respective above stated addresses sent by certified mail, return receipt requested, that this Letter of Credit is about to expire and that construction on the roads and/or streets and drainage facilities has not been completed, and the City intends to draw upon this credit unless a substitute Letter of Credit in an approved form, and in an amount equal to the total sum stated hereinabove plus any estimated increase in cost due to change in construction cost index for the items considered in the original Letter of Credit, is substituted and accepted by the City at least 15 days prior to the expiration date of this Letter of Credit and a substitute Letter of Credit has not been provided to the City;

Condition Four: The City has given written notice, return receipt requested, at least 30 days prior to the expiration of this Letter of Credit, to the Customers' above stated addresses, that maintenance of any or all of the roads and/or streets for which security has been provided, and which were constructed in accordance with said specifications, has not been begun or has not been faithfully performed or has not been of such quality as to deliver to the City, at the end of one year following the approval of construction by the City Inspector/Planner and release of construction security by the City, facilities and condition equal to that at the beginning of the period, and the Customers have not corrected such deficiency, such failure to act not being due to weather, acts of God, strikes, or other reasons beyond the Customers' control, and due diligence has not been used in efforts to correct the deficiency; and that the City considers such a drawing on this credit amount necessary in order to complete any part or all of the construction, installation, or maintenance.

No further substantiation of the necessity of the draw by the City of San Elizario, Texas is required by this Letter of Credit.

Request for the draw of funds under this credit must be received prior to the expiration of three years following the date of this credit and we agree to honor all complying requests within ten days of presentation.

We further state that this credit is irrevocable prior to the expiration date unless all parties, including for all purposes the City of San Elizario, Texas, consent to such revocation in writing.

Lender's Name: _____

Authorized Officer's Signature: _____

Date: _____

DATE CREDIT APPROVED BY CITY ACTION: _____

APPENDIX B. PERFORMANCE BOND

COMBINED PERFORMANCE BOND (100 PERCENT OF TOTAL) FOR THE CONSTRUCTION AND MAINTENANCE OF ROADS AND STREETS WITHIN REAL ESTATE SUBDIVISIONS

STATE OF TEXAS
COUNTY OF EL PASO

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal (Subdivider or Developer), and the other undersigned as Surety, are held and firmly bound unto the Mayor of the City of San Elizario, Texas, or his successors in office, in the penal sum of _____ Dollars (\$_____) lawful money of the United States, well and truly to be paid to the City of San Elizario, Texas, and we bind ourselves, our heirs, successors, executors, and administrators jointly and severally, firmly by these presents.

WHEREAS, the above bounden Principal proposes to create and construct a real estate subdivision known as _____ and which will contain streets, roads, drainage facilities and other facilities for the use of the residents therein, and therefore enters into this obligation as required under law.

The condition of this obligation is such that if the above bounden Principal, his or its heirs, successors, executors, and administrators shall well and faithfully do and perform the construction of all roads and/or streets in said subdivision in accordance with specifications for roads and/or streets in subdivisions as currently adopted by the City of San Elizario, Texas, and in effect on the date of this instrument is approved; then right of said City to recover 90 percent of the above penal sum of this obligation shall be null and void; otherwise to be and remain in full force and effect, and the City Council of San Elizario, Texas, may construct or cause to be constructed the said roads and/or streets of this subdivision to meet the requirements of the said specifications, and the cost of such construction shall be charged to the Principal and Surety hereof.

A further condition of this obligation is such that the above bounden Principal, his or its heirs, successors, executors, and administrators shall well and faithfully do and perform the maintenance for a period of one year of all roads and/or streets as shown on the plat of said subdivision or otherwise identified for inclusion in this agreement, and constructed in accordance with said specifications for roads and/or streets, such maintenance to begin on approval of construction by the (Date) _____.

A further condition of this bond is such that recovery on this bond shall not be limited or exhausted by one or more recoveries less than the total amount of the bond.

Should this bond be ruled unenforceable as a statutory bond, the obligees shall be, and by their signature hereon are, bound by this contract as common law obligation.

Should the Principal request a resubdivision of any or all of the land described by the attached plat prior to the expiration of the two-year time period after the plat is approved, and also offer with the request for resubdivision new bonds meeting the Subdivision and Construction Maintenance Bond requirements in force in the City of San Elizario, Texas, at the time of offering, then the City Council of the City of San Elizario, Texas, may, on acceptance of the resubdivision and new bonds, declare this bond null and void.

WITNESS OUR HANDS this the _____ day of _____, 20_____.

Principal (Print Firm Name): _____

ATTEST

By: _____

Title: _____

Surety (Print Firm Name): _____

ATTEST

By: _____

Title: _____

NOTE: If signed by an officer of the Surety Company, there must be on file a certified extract from the bylaws showing that this person has authority to sign such bond obligation. If signed by an attorney-in-fact, a copy of the Power of Attorney must be attached or in the files of the County.

APPENDIX C. PLAT CERTIFICATION

REQUIRED STATEMENTS AND CERTIFICATIONS FOR ALL PLATS.

A. Owner’s Acknowledgement.

STATE OF TEXAS
COUNTY OF EL PASO

WHEREAS, _____, the owner(s) of _____ acres of land out of the _____ Survey, Abstract No. _____ of El Paso County, Texas, conveyed to me (us) by deed recorded in Volume _____, Page _____, of the El Paso County Deed Records;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That I (we) the undersigned owner(s) of the land shown on this plat, and designated herein as the _____ Subdivision of the City of San Elizario, El Paso County, Texas, and whose name is subscribed hereto, hereby subdivides said _____ acres of land to be known as the _____ Subdivision and do hereby dedicate to the use of the public forever all streets, alleys, parks, watercourses, drains, public easements, and public places thereon shown for the purposes and consideration therein expressed.

WITNESS MY HAND this _____ day of _____, 20_____.

Name, Record Owner

Address

STATE OF TEXAS
COUNTY OF EL PASO

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, (*for corporations: as its president, thereunto authorized, attested by its secretary [name of secretary], and its common seal hereunto affixed,*) and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 20_____.

Notary Public in and for El Paso County, Texas
My Commission expires: _____

B. Certification by Lower Valley Water District.

The tract of land described on this plat is within the boundaries of Lower Valley Water District and has water and sewer service available.

President or Manager, Lower Valley Water District
Date: _____

C. City Approval Block (required).

Recommendation by the Planning and Zoning Commission of the City.
This plat has been submitted to and considered by the Planning and Zoning Commission of the City of San Elizario, Texas.

Chairperson, City of San Elizario, Texas
Date: _____

Certification by the City Administrator.

I, the undersigned, City Administrator of the City of San Elizario, Texas, hereby certify that this subdivision plat conforms to all requirements of the subdivision regulations of the City for which my approval is required.

City Administrator, City of San Elizario, Texas

Date: _____

Approval by the City Council.

Approved and authorized for record by the City Council of the City of San Elizario, Texas.

Mayor, City of San Elizario, Texas

Attest:

City Clerk

Date: _____

D. Certification of Surveyor (responsible for surveying the subdivision area, attesting to its accuracy).

STATE OF TEXAS
COUNTY OF EL PASO

I, the undersigned, a _____ (Registered Professional Engineer/or Public Surveyor) in the State of Texas, hereby certify that this plat is true and correct and was prepared from the actual survey of the property made under my supervision on the ground.

(Engineer or Surveyor's Seal)

Registered Professional Engineer or Registered Public Surveyor

Date: _____

E. Notes.

(1) Flood Hazard Note.

Flood Hazard: The Federal Insurance Administration maps for the City of San Elizario, Texas, indicate that the property shown hereon does/does not lie within a special flood hazard area as defined by said maps, dated_____.

(2) Streets, Roads and Other Public Thoroughfares Note.

a. For subdivisions within the city limits of the City of San Elizario:

Streets, roads and other public thoroughfares shown on plat: The building of all streets, roads and other public thoroughfares shown on this plat, and any bridges or culverts necessary to be constructed or placed in such streets, roads or other public thoroughfares or in connection therewith, shall be the responsibility of the owner and/or developer of the tract of land covered by this plat in accordance with the plans and specifications prescribed by the City Council of the City of San Elizario, El Paso County, Texas, if said plat is within the City limits of the City of San Elizario, Texas. The City of San Elizario, Texas assumes no responsibility to build any of the streets, roads or other public thoroughfares shown on this plat or any bridges or culverts in connection therewith. All curb cuts, entrances and exits onto public streets or highways shall first be approved by the City of San Elizario, Texas.

b. For subdivisions within the extraterritorial jurisdiction of the City:

All or part of this subdivision is within the extraterritorial jurisdiction of the City of San Elizario. Under Chapter 241, Local Government Code, the County of El Paso and the City of San Elizario have joint jurisdiction over approval of this plat. However, El Paso County retains the sole and exclusive jurisdiction over maintenance of public roads in, and development permits for this subdivision. The City of San Elizario’s approval of this plat does not ensure El Paso County’s approval of the plat nor the acceptance of the roads for maintenance or the issuance of development permits for this subdivision. The owner(s) or developer(s) is(are) responsible for ensuring that the requirements of this plat are consistent with and do not prevent acceptance of the roads or development permits for this subdivision. In the event of a conflict, plat amendments may be required prior to accepting roads or issuing development permits.

(3) Access Easements (if applicable):

The undersigned owner does acknowledge and agree that the access easement may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for fire department and emergency use in, along, upon and across said premises, with the right and privilege at all times of the City of San Elizario, its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises.

F. Restrictions or covenants filed as Document No. _____, of the El Paso County Deed Records.

G. All of the land depicted on this subdivision plat is/is not located within the full purpose municipal boundaries of the City of San Elizario on this the _____ day of _____ 20_____.

H. ETJ Only, Certification by Clerk of El Paso County, Texas.

STATE OF TEXAS
COUNTY OF EL PASO

I, _____, Clerk of the County Court of El Paso, County, Texas, do hereby certify that on the _____ day of _____, 20_____, the Commissioners Court of El Paso County, Texas, passed an Order authorizing the filing for record of this plat, and that said Order has been entered into the Minutes of Said Court, as Document No. _____.

WITNESS MY HAND AND SEAL OF THE COUNTY COURT OF SAID COUNTY, this _____ day of _____, 20_____.

Clerk of the County Court El Paso County, Texas

By _____, Deputy

I. Additional Requirements.

- (1) If requested by the City, the owner shall submit an affidavit of any conveyance of any interest he has made in the land within the plat since the date of the original title certificate.
- (2) Tax certificates shall accompany the plat, indicating that all taxes have been paid.
- (3) Where any private easement, right-of-way or fee strip within the plat is crossed by proposed streets, alleys or other public easements, the following must be submitted: a signed copy of a recordable instrument from the holder of the private easement, right-of-way, or fee strip defining its location and granting or permitting to the public such public streets, alleys or easements in, over and under, and across such private easements, rights-of-way or fee strips for construction, operation and maintenance of those public facilities indicated.