



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

DEPARTMENT: Planning & Economic Development / Planning Division

AGENDA DATE: Introduction 05/10/2011: Public Hearing 05/17/2011

CONTACT PERSON/PHONE: Eduardo Garcia – 541-4638

DISTRICT(S) AFFECTED: All

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

SUBJECT:

An ordinance amending Title 19 (Subdivisions), Article 1 (Subdivision Procedures), Chapter 19.01 (Provisions Applicable To All Platting Procedures), Chapter 19.05 (Reserved), and Chapter 19.20 (Parks and Open Space) of the El Paso City Code, to include provisions for Development Plats and for requiring recalculation of Parkland Fees or dedication for non-residential subdivisions that increase dwelling units or change use to allow dwelling units. The penalty is as provided for in Section 19.42 of the El Paso City Code. (**ALL DISTRICTS**)

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

LEGAL: N/A

FINANCE: N/A

DEPARTMENT HEAD:

Mathew McElroy, Deputy Director - Planning

APPROVED FOR AGENDA:

CITY MANAGER:

DATE: _____



ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS), ARTICLE 1 (SUBDIVISION PROCEDURES), CHAPTER 19.01 (PROVISIONS APPLICABLE TO ALL PLATTING PROCEDURES), CHAPTER 19.05 (RESERVED), AND CHAPTER 19.20 (PARKS AND OPEN SPACE) OF THE EL PASO CITY CODE, TO INCLUDE PROVISIONS FOR DEVELOPMENT PLATS AND FOR REQUIRING RECALCULATION OF PARKLAND FEES OR DEDICATION FOR NON-RESIDENTIAL SUBDIVISIONS THAT INCREASE DWELLING UNITS OR CHANGE USE TO ALLOW DWELLING UNITS. THE PENALTY IS AS PROVIDED FOR IN SECTION 19.42 OF THE EL PASO CITY CODE.

WHEREAS, Chapter 212 of the Texas Local Government Code allows the City to adopt rules governing plats and subdivisions of land in order to promote the health safety morals or general welfare of the city and for the safe orderly and healthful development of the City; and,

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

WHEREAS, the Subdivision Ordinance helps guide the physical development of the community by promoting orderly and healthful design, and particularly by ensuring adequate public facilities and services are available to new development, to include transportation, water, sewerage, schools, parks and other public improvements are available concurrent with development and will have a sufficient capacity to serve the subdivision and to ensure the subdivider provides for the required public improvements attributable to the development; and,

WHEREAS, the Subdivision Ordinance establishes reasonable standards of design and procedures for subdivision and resubdivision of land in order to further the orderly layout and use of land assuring the adequacy of drainage facilities; safeguard the water table; proper and safe circulation of traffic throughout the city; and to encourage the use and management of natural resources throughout the city in order to preserve the integrity, stability and beauty of the city;

WHEREAS, Chapter 212, Subchapter B of the Texas Local Government Code allows cities to adopt an ordinance requiring Development Plats to be submitted by developers; and,

WHEREAS, the City Plan Commission (CPC) has reviewed the ordinance and recommends that City Council adopt the ordinance and amend Title 19 as herein enumerated; and,

WHEREAS, the El Paso City Council finds that the adoption of these amendments will further protect and provide for the public health, safety, morals and general welfare of the community, and

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City;

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

SECTION 1. That Title 19 (Subdivisions), of the El Paso City Code be retitled as follows:

Title 19 Subdivision and Development Plats.

SECTION 2. That Article 1 (Subdivision Procedures), of the El Paso City Code be retitled as follows:

Article 1, Platting Procedures

SECTION 3. That Section 19.01.010 (Provisions Applicable to All Platting Procedures), of the El Paso City Code be amended as follows:

1. Paragraph B, (Purpose), Subparagraphs 1 and 2, be amended as follows:

B. Purpose.

1. The provisions of this title are intended to implement standards and requirements provided for herein, and shall be minimum requirements for the subdivision and/or development of land within the City of El Paso and its extraterritorial jurisdiction, as authorized by state statute.
2. The subdivision and/or development of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. Through the application of these regulations, the interests of public and private parties are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the requirements in this title further the possibility that land will be developed in accordance with existing physical, social, economic and environmental conditions.

2. Paragraph C, (Applicability), Subparagraphs 1 and 2, be amended as follows:

C. Applicability

1. The provisions of this title apply to any division of land, combination of separate land parcels, and/or development of land within the corporate boundaries of the city and within its extraterritorial jurisdiction.
2. No permit shall be issued for any development on a property until either a subdivision plat or a development plat has been approved, and if required by this Title, filed for record, in accordance with Title 19, except that the following shall be exceptions to this requirement:
 - a. Permits for repair or remodeling of an existing structure or for site improvements (parking areas, driveways, etc.) which involve no increase in square footage; or

b. The replacement of an existing primary single-family or duplex structure, not to exceed the square footage, nor deviate from the original location, of the original structure, provided that the new structure is in conformance with all other provisions of the City Code; or

c. Building additions to single-family or duplex structures of not over one hundred percent (100%) of the existing structure's value, and of not over fifty percent (50%) of the gross floor area of the structure; provided that any increase in square footage of a structure, any additions to a structure, and/or any site improvements are in compliance with all other provisions of the City Code; or

d. Demolition permits, or permits for removal of a structure from a parcel or tract; or

e. Permits for Accessory buildings (as defined in Title 20 of the Zoning Ordinance).

3. Paragraph D, (Subdivision Rules), be amended as follows:

D. Subdivision Plat and Development Plat Rules. The provisions of this Title, the standards governing water and wastewater facilities applicable to plats, and the technical standards contained in the City of El Paso Design Standards for Construction (DSC), as developed by the city manager or designee and adopted by resolution by the city council and as may be amended from time to time, constitute the subdivision and development rules of the City of El Paso, which apply to applications for plat approval inside city limits and within the city's extraterritorial jurisdiction. The DSC shall be maintained by and be available in the Planning Division of the Planning and Economic Development Department. Other ordinances of the city may also apply to land development and must be complied with

SECTION 4. That Section 19.01.020 (Types of plat required), Paragraphs A and C, of the El Paso City Code is amended to add the following Subsection:

Section 19.01.020. Types of plats required.

A. Subdivision Plats. A final plat or a minor plat shall be submitted and approved prior to any non-exempt land division.

B. Development Plats. Any person who proposes the development of a tract of land or parcel located within the limits or within the City's extraterritorial jurisdiction of the municipality, to include tracts exempted from preparing a subdivision plat, must have a development plat of the tract or parcel prepared and approved in accordance with Chapter 19.05 prior to development on the tract or parcel. Tracts or parcels included within an approved subdivision plat meeting all the requirements of Title 19 are exempt from the requirements for submittal of a Development Plat.

C. Replats. A replat and the provisions of Chapter 19.07 shall be required any time a platted, recorded lot is further divided or expanded, thereby changing the boundary and dimensions of the property, except as allowed below in Section 19.01.030, Exemptions. In the case of revisions to recorded plats or lots, a minor or amending plat may also be utilized if allowed by state law in accordance with Chapter 19.06 and Section 19.07.040.

SECTION 5. That Section 19.01.040 (Time for decision on plats and land studies), of the El Paso City Code is amended as follows:

1. That Paragraph A (Time period for Action), is amended as follows:

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

2. That Paragraph B (Waiver of Right to Thirty-Day Action), Subparagraph 2, is amended as follows:

2. Request. An applicant may request in writing a waiver of right to thirty-day action in relation to the decision time for final, minor, amending or development plats or replats suitable for recording of thirty days mandated by state law. The waiver request shall contain a statement of the time for which a waiver is sought. No waiver shall be granted for a period less than the commission's next regularly scheduled meeting. No waiver is required for preliminary plats, land studies, construction or engineering drawings or plans, or concept plans since they are not suitable for recording and not covered by the thirty-day rule.

3. That Paragraph C (Preliminary and Final Plat Application Within the Extraterritorial Jurisdiction) is amended as follows:

C. Preliminary, Final, and Development Plat Application Within the Extraterritorial Jurisdiction. Where the land to be platted lies within the extraterritorial jurisdiction of the city in El Paso County, no preliminary, final or Development Plat application shall be accepted as complete in accordance with Section 19.37.020, unless the application also complies with Chapter 19.11 and its requirements regarding the ETJ.

SECTION 6. That Section 19.01.050 (Application and procedures), of the El Paso City Code is amended to include the following Paragraph:

F. Development Plat (See Chapter 19.05 for substantive requirements).

1. Application and related documents meeting the requirements in the Development Plat submission checklist.
2. Application fee.
3. An electronic copy of the plat in a format acceptable to the city as specified in the DSC.
4. Field notes as specified in the DSC.
5. Title opinion or proof of ownership dated within thirty days of submission.
6. Final subdivision improvement plans with all accompanying documentation must be submitted prior to or at the time of submission of the Development Plat.
7. Drainage plans.
8. Utility plans, even though provided by another agency.

SECTION 7. That Section 19.01.060 (Stages of plat approval), of the El Paso City Code is amended as follows:

Section 19.01.060 Stages of plat approval

A. Subdivision Plats. A subdivision plat may be approved in three stages:

1. Land study (refer to Chapter 19.02); if required;
2. Preliminary plat (refer to Chapter 19.03); and
3. Final plat (refer to Chapter 19.04).

B. Development Plats (refer to Chapter 19.05).

C. Combined Applications. An applicant may submit applications for approval of a land study and a preliminary plat, or a preliminary plat and a final plat simultaneously. Such acceptance shall be on a form provided by the Planning Division. The combination plat must meet all requirements of a final plat prior to approval by the city plan commission. Engineering and subdivision improvement plans must also be submitted and approved in accordance with this title.

D. City Manager or Designee. The city manager, or designee shall be the responsible official for a plat, and the staff shall be the initial reviewing body for a plat application.

1. The city manager, or designee, and/or other city staff at the direction of the city manager, or designee, shall review all plat applications for completeness (refer to Section 19.37.020) based on a checklist and the administrative submission requirements supplied by the Planning Division.

2. The staff shall review all plat applications that are deemed complete for conformance with this chapter and any other applicable city regulations.

SECTION 8. That Title 19 (Subdivisions), Chapter 19.05 (Reserved) of the El Paso City Code is amended as follows:

Chapter 19.05: Development Plats

Section 19.05.01 Purpose and Effect

A. Authority. This section is adopted pursuant to Texas Local Government Code, Chapter 212, Subchapter B, Section 212.041 to 212.050.

B. Purpose. The purpose of a Development Plat is to ensure the adequacy of public facilities needed to serve the intended development and to promote the health, safety, morals, or general welfare of the city and the safe, orderly and healthful development of the city.

C. Applicability. For purposes of this Chapter, the term "development" means new construction or the enlargement of any exterior dimension of any building, structure, or any improvement whether located within the City or within its extraterritorial jurisdiction. A Development Plat is required for:

1. The development of any tract or parcel of land which has not been platted or replatted prior to the effective date of this Ordinance, unless expressly exempted under Paragraph D below; or

2. The development of any parcel or tract of land for which the only access is a private easement or street; or
3. The division of any tract or parcel of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated or constructed.

D. Exceptions. A Development Plat is not required:

1. When a Final Plat, Minor Plat, or Replat in accordance with the requirements of this Subdivision Ordinance has been recorded; or,
2. For bona fide agricultural activities; or,
3. For construction of agricultural accessory structures and related agricultural development activities; or,
4. When an exception is granted in accordance with Section 19.01.010C(2) or 19.01.030.
5. Where the provisions of this Chapter require a Development Plat, a developer has the option of filing a subdivision plat under the provisions of Title 19.

E. Effect. Approval of a Development Plat shall authorize the subdivider to seek approval of installation of any improvements in public rights-of-way in accordance with approved subdivision improvement plans, seek approval to site preparation, building and other permits for any lot in the subdivision, in accordance with section 19.08.020. Approval also authorizes the recordation of the Development Plat in accordance with this title.

F. Prohibition on Development. No development shall commence, nor shall the City issue any building permit, utility connection permit, electrical connection permit or similar permit for any development until a Development Plat, or if applicable a Subdivision Plat, has been approved by the City Plan Commission and submitted to the City for filing and recorded with the County of El Paso.

Section 19.05.02 Application and Procedures

A. Responsible Official. The City Manager, or designee shall be the responsible official for a Development Plat, and the Staff shall be the initial reviewing body for a Development Plat.

B. Application Contents. All applications shall be submitted on a form supplied by the Planning Division with the required information as stated on the application form and the administrative submission requirements available in the Planning Division. Information required shall be the same as required for a Final Plat. In addition to this information, a Development Plat shall:

1. Be prepared by a Registered Professional Land Surveyor as a boundary survey showing:
 - a. each existing and/or proposed building, structure, or improvement or proposed modification of the external configuration of the building, structure, or improvement involving a change of the building, structure, or improvement;
 - b. each easement and right-of-way within or abutting the boundary of the surveyed property;
 - c. the dimensions of each street, sidewalk, alley, square, park, or other part of the property intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park, or other part; and,
 - d. be accompanied by the required number of copies of the Development Plat, a completed application form, the required submission fee (per the City's current fee schedule), and all related documents meeting the requirements in the Development Plat submission checklist..

A copy of all the above application materials for a Development Plat shall be simultaneously submitted to the Planning Division for review in the same manner as for a Final Plat, or the application shall be deemed incomplete in accordance with Section 19.01.05.

C. Procedure. The application and review procedure for a Development Plat shall be submitted to the City in the same manner as a Final Plat (see Chapter 19.04).

Section 19.05.03 Decision

The City Plan Commission shall decide whether to approve, approve with conditions, or deny the Development Plat application in the same manner as a Final Plat. The action of the Commission shall be entered in the minutes of the Commission and the applicant shall be notified of the results. Upon approval of the Development Plat, the applicant shall correct and submit final Development Plat copies to the city manager or designee so that required signatures can be obtained and the Development Plat recorded. If any conditions are attached to the Commission's approval, the final Development Plat copies shall be so corrected prior to signature by any city official.

Section 19.05.04 Criteria for Approval

A. The following criteria shall be used to determine whether the application for a Development Plat shall be approved, approved with conditions, or denied:

1. The Development Plat is consistent with the City's Comprehensive Plan, any applicable zoning requirements for the property, and any approved Development Agreement;
2. The Development Plat conforms to the general layout of the approved Land Study, if any, and is consistent with the phasing plan approved therein;
3. The proposed provision and configuration of roads, water, wastewater, drainage and park and open space facilities are adequate to serve the development and meet the standards of this Chapter;
4. Public and/or private (if approved) easements or rights-of-way for all public water, wastewater, roadway and drainage facilities or other public utilities have been designated;
5. The ownership, maintenance, and allowed uses of all designated easements have been stated on the Development Plat.
6. The Development Plat complies with the applicable provisions of Article 2 of this Title.
7. The Development Plat where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the County meets the requirements in Chapter 19.11 and any County of El Paso standards and is approved by the County.

Section 19.05.05 Expiration and Extension

The approval of a Development Plat shall remain in effect for a period of two years from the date of approval by the City Plan Commission, during which period the applicant shall submit any required revisions for required for the recordation of the Development Plat. If the Development Plat has not been recorded within the two-year period, the Development Plat approval, unless extended in accordance with Chapter 19.41, shall expire and the applicable Development Plat shall be deemed null and void.

Section 19.05.06 Plat Recordation

Procedure. The Development Plat shall be filed and recorded at the County of El Paso by the City in the same manner as prescribed for a Final Plat (see Chapter 19.04).

SECTION 9. That Title 19 (Subdivisions), Section 19.20.020 (Dedication Required) Paragraph C (In Nonresidential Subdivisions), of the El Paso City Code be amended as follows:

C. In Nonresidential Subdivisions. After parkland fees have been calculated, a subdivision, not otherwise classified as a residential subdivision, that changes the use to include dwelling units or increases the density of dwelling units within the subdivision, shall trigger a recalculation of parkland fees or parkland dedication under Chapter 19.20. If additional fees are due or if the recalculation requires parkland to be dedicated, then such fees shall be paid, or dedication provided, prior to the issuance of any building permit

SECTION 10. Except as expressly herein amended, Title 19, Subdivisions, of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS _____ day of _____ 2011.

CITY OF EL PASO:

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Lupe Cuellar
Assistant City Attorney

Mathew S. McElroy, Deputy Director – Planning
and Economic Development Department



**PLANNING AND ECONOMIC DEVELOPMENT
PLANNING DIVISION**

MEMORANDUM

DATE: May 10, 2011

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

FROM: Eduardo Garcia, Lead Planner

SUBJECT: **Amendments to Title 19 Regarding the Addition of Development Plats and Regarding Recalculation of Parkland Fees**

The City Plan Commission (CPC), on April 21, 2011, **voted 4-1** to recommend **approval** of the respective Title 19 amendments.

The Legislative Review Committee unanimously recommended approval of this item at the April 7, 2011, meeting.

Mayor
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City Council

District 1
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