

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

DEPARTMENT: Planning and Inspections, Planning Division

AGENDA DATE: Introduction – August 6, 2019

PUBLIC HEARING DATE: September 3, 2019

CONTACT PERSON NAME AND PHONE NUMBER:

Philip F. Etiwe, (915) 212-1553, EtiwePF@elpasotexas.gov

Raul Garcia, (915) 212-1643, Garcia1@elpasotexas.gov

DISTRICT(S) AFFECTED: Citywide

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.1 Provide business friendly permitting and inspection processes

3.2 Improve the visual impression of the community

SUBJECT:

An Ordinance amending Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.01 (Provisions Applicable to all Platting Procedures), Section 19.01.040 (Time for decision on Plats and Land Studies); Chapter 19.02 (Land Studies), Section 19.02.020 (Application Procedures) and Section 19.02.030 (Decision); Chapter 19.03 (Preliminary Plats), Section 19.03.020 (Application and Procedures) and Section 19.03.030 (Decision); Chapter 19.04 (Final Plat), Section 19.04.020 (Application and Procedures) and Section 19.04.030 (Decision); Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.010 (General Requirements for Plat Revisions) and Section 19.07.020 (Replats Without Vacation) and Section 19.07.030 (Special Replat Requirements) and Section 19.07.040 (Amending Plats); Chapter 19.08 (Construction Plans and Management), Section 19.08.010 (Subdivision Improvement Plans) and Section 19.08.020 (Timing of Public Improvements, Permit Issuance); and Title 19 (Subdivision and Development Plats), Article 4 (Specific Application and Processing Requirements), Chapter 19.38 (Notice Requirements), Section 19.38.020 (Personal Notice for Replats) of the El Paso City Code to comply with changes made by the Texas Legislature during the 86th Legislative Session under H.B. 3167 AND H.B. 3314 regarding municipal approval procedure for land development applications and certain requirements related to subdivision plats. The penalty is as provided under Chapter 19.42 of the El Paso City Code. (Citywide)

BACKGROUND / DISCUSSION:

On July 25, 2019, the City Plan Commission reviewed and recommended approval of the proposed amendments.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

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

DEPARTMENT HEAD:

Philip F. Etiwe, Director
Planning and Inspections Department

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISION AND DEVELOPMENT PLATS), ARTICLE 1 (PLATTING PROCEDURES), CHAPTER 19.01 (PROVISIONS APPLICABLE TO ALL PLATTING PROCEDURES), SECTION 19.01.040 (TIME FOR DECISION ON PLATS AND LAND STUDIES); CHAPTER 19.02 (LAND STUDIES), SECTION 19.02.020 (APPLICATION PROCEDURES) AND SECTION 19.02.030 (DECISION); CHAPTER 19.03 (PRELIMINARY PLATS), SECTION 19.03.020 (APPLICATION AND PROCEDURES) AND SECTION 19.03.030 (DECISION); CHAPTER 19.04 (FINAL PLAT), SECTION 19.04.020 (APPLICATION AND PROCEDURES) AND SECTION 19.04.030 (DECISION); CHAPTER 19.07 (REVISIONS TO RECORDED PLATS), SECTION 19.07.010 (GENERAL REQUIREMENTS FOR PLAT REVISIONS) AND SECTION 19.07.020 (REPLATS WITHOUT VACATION) AND SECTION 19.07.030 (SPECIAL REPLAT REQUIREMENTS) AND SECTION 19.07.040 (AMENDING PLATS); CHAPTER 19.08 (CONSTRUCTION PLANS AND MANAGEMENT), SECTION 19.08.010 (SUBDIVISION IMPROVEMENT PLANS) AND SECTION 19.08.020 (TIMING OF PUBLIC IMPROVEMENTS, PERMIT ISSUANCE); AND TITLE 19 (SUBDIVISION AND DEVELOPMENT PLATS), ARTICLE 4 (SPECIFIC APPLICATION AND PROCESSING REQUIREMENTS), CHAPTER 19.38 (NOTICE REQUIREMENTS), SECTION 19.38.020 (PERSONAL NOTICE FOR REPLATS) OF THE EL PASO CITY CODE TO COMPLY WITH CHANGES MADE BY THE TEXAS LEGISLATURE DURING THE 86TH LEGISLATIVE SESSION UNDER H.B. 3167 AND H.B. 3314 REGARDING MUNICIPAL APPROVAL PROCEDURE FOR LAND DEVELOPMENT APPLICATIONS AND CERTAIN REQUIREMENTS RELATED TO SUBDIVISION PLATS. THE PENALTY IS AS PROVIDED UNDER CHAPTER 19.42 OF THE EL PASO CITY CODE.

WHEREAS, the City Plan Commission on July 25, 2019 recommended approval of the amendments.

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

SECTION 1. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.01 (Provisions applicable to all platting procedures), Section 19.01.040 (Time for decision on plats and land studies) is amended in its entirety to read as follows:

19.01.040 - Time for decision on plats and land studies.

- A. Time period for action. All preliminary plat, final plat, minor plat, development plat, replat, and land study 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 request is submitted in accordance with subsection B. below. 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. The request may be for a period not to exceed thirty days.

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B. Waiver of Right to Thirty-Day Action,

1. **Responsible Official.** The city manager or designee shall be the responsible official and the initial decision-maker for a waiver of right to thirty-day action or extension to the thirty-day action requirement for minor applications. The City Plan Commission shall be the responsible official and the initial decision-maker for a waiver of right to thirty-day action or extension to the thirty-day action requirement for all preliminary plat, final plat, development plat, replat, and land study applications.
 2. **Request.** An applicant may request in writing a waiver of right to thirty-day action in relation to the decision time for preliminary plats, final plats, minor plats, development plats, replats, or land studies suitable for approving within thirty days as mandated by state law. The waiver request shall contain a statement of the time for which a waiver is sought. With the exception of a request for a minor plat application, no waiver shall be granted for a period less than the commission's next regularly scheduled meeting. All waivers and extension requests, to include those relating to minor plat applications, shall be for a period not to exceed thirty days.
 3. **Received.** Waiver and extension requests for preliminary plats, final plats, development plats, replats, and land studies may be received by the city manager, or designee prior to the City Plan Commission meeting agenda posting deadline at which action would have to be taken (based on the thirty-day requirement in state law) on the plat application. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the plat application at such meeting as scheduled.
 4. **Action.** The City Plan Commission shall take action on the waiver of right to thirty-day action request within the thirty-day period for acting on the plat. If the waiver is granted, action on the plat application shall be waived for a certain period of time, consistent with the approved waiver.
 5. **Reserved.**
 6. **Requirements Maintained.** The granting of a waiver of right to thirty-day action request shall not be deemed in any way a waiver to any requirement within this title. A waiver from requirements herein is a separate and distinct process.
- 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 2. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.02 (Land Studies), Section 19.02.020 (Application Procedures) is amended in its entirety to read as follows:

19.02.020 - Application and procedures.

- A. Responsible Official. The city manager or designee shall be the responsible official for a land study.
- B. Submittal. All applications shall be submitted on a form supplied by the planning division with the required information as stated on the application form.
- C. Prior Approved Applications. An application for a land study shall not be approved unless all zoning amendments, including a request for a zoning change or a comprehensive plan, thoroughfare plan or other adopted plan amendment, which are necessary to authorize the uses or layout proposed on the land study have been approved and remain in effect for the land included in the land study. An application may be conditionally approved subject to the other required zoning and plan amendment approvals being approved.
- D. Accompanying Applications.
 - 1. An application for a land study may be accompanied by an application for rezoning approval provided that the rezoning application shall be decided first.
 - 2. An application for a land study may be accompanied by an application for approval of a preliminary plat for the first phase of the project, provided that the application for land study shall be decided first. The applicant may request simultaneous review. However, the applicant assumes all responsibility for any problems or issues created by simultaneous submission.
- E. General Requirements. The subdivider shall submit the land study application in a number and form that is in accordance with the application form, requirements and checklist as adopted by the city. The land study shall be accompanied by a processing fee established by the city council. The land study shall be prepared by an engineer at a scale of one inch equals two hundred feet, except where the city manager or designee approves a modified scale, on one or more twenty-four-inch by thirty-six-inch sheets which provides all of the following information:
 - 1. General arrangement of existing and proposed land uses, including, but not limited to, park and school sites, other public facilities, open space areas, floodplains and drainage ways. The land uses regulated by zoning must comply with both the location and layout as prescribed by the official adopted zoning map and zoning ordinance of the City of El Paso, unless a rezoning is proposed as part of the combined application;
 - 2. The proposed density expressed in units per acre and population by land use. The proposed densities shown may not exceed those prescribed by the official adopted

- zoning map and zoning ordinance of the City of El Paso unless a rezoning is proposed as part of the combined application;
3. Proposed phasing of platting;
 4. The proposed traffic circulation, layout, and width of all collector streets and arterial street classifications. The proposed street layout must comply with the adopted thoroughfare plan for the City of El Paso as to location and size of roadways, unless an amendment to such plans is proposed as part of the combined application;
 5. Traffic impact/capacity study to determine the capacity need, if any, for additional traffic lanes (e.g., acceleration, deceleration, or turning), signalization and other roadway or traffic mitigation improvements. The traffic impact/capacity study shall be prepared in accordance with standards provided by the city;
 6. Conceptual drainage plan indicating existing and proposed major stormwater sewer facilities. The drainage plans shall indicate the phasing plans and approximate location of temporary and permanent easements and rights-of-way that will be needed to accommodate the phasing plan and to carry the stormdrainage to its ultimate destination;
 7. Layout and relationship of the proposed subdivision(s) to surrounding development, including the location, width, and names of all existing and platted streets, subdivisions, public ways, drainage channels, and other relevant features;
 8. Existing and/or proposed zoning of the property and adjoining land;
 9. Dimensions of the land study boundaries;
 10. Existing contours of the tract in intervals appropriate to the topography as determined by the city manager, or designee, in accordance with the DSC and based on National Geodetic Vertical Datum (year to be specified on land study);
 11. Existing major water and sanitary sewer facilities.

SECTION 3. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.02 (Land Studies), Section 19.02.030 (Decision) is amended in its entirety to read as follows:

19.02.030 - Decision.

- A. The City Plan Commission shall decide whether to approve, approve with conditions, or deny the land study application.
- B. Prior to the decision, the City Plan Commission shall be provided with a full copy of the land study and all related documents that are needed to make a decision as to compliance with this title.
- C. Where the City Plan Commission conditionally approves or disapproves a land study application, the City Plan Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement must:

1. Be directly related to the requirements in Title 19 and specifications contained in the City of El Paso Design Standards for Construction (DSC); and
 2. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval; and
 3. May not be arbitrary
- D. After the conditional approval or disapproval of the land study, the applicant may resubmit the land study along with a written response that clearly articulates how each condition for conditional approval or each reason for disapproval has been remedied.
- E. The City Plan Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved land study within fifteen days of receipt of resubmission and written response.
- F. It shall be the responsibility of the subdivider to insure that the land study satisfies all the requirements of the city code, the DSC and any other regulatory requirement.

SECTION 4. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.03 (Preliminary Plats), Section 19.03.020 (Application and Procedures) is amended in its entirety to read as follows:

19.03.020 - Application and procedures.

- A. Responsible Official and Initial Review. The city manager, or designee shall be the responsible official for a preliminary plat, and the staff shall be the initial reviewing body for a preliminary plat application.
- B. Pre-Application Conference. Refer to Section 19.37.050 of Chapter 19.37.
- C. 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.
- D. Preliminary engineering information in accordance with the DSC checklists meeting the submission requirements must also be submitted with the preliminary plat application.
- E. Accompanying Applications. An application for a preliminary plat may be accompanied by an application for rezoning approval, including a request for a planned development district, or a land study application. The rezoning application and land study application shall be decided first, or the preliminary plat shall be approved subject to their approvals. Action in accordance with this title will be taken on the preliminary plat within thirty days.
- F. Staff Review. The staff shall review each preliminary plat application to be placed on the agenda of the forthcoming meeting of the City Plan Commission. The staff shall recommend either:
 1. Approval of the preliminary plat;
 2. Denial of the preliminary plat;

3. Approval of the preliminary plat with conditions; or
4. Approval of the preliminary plat with recommendations regarding any exceptions provided for in this title.

G. Resubmittal Following Staff Review.

1. The applicant shall retain in his possession a copy of the original preliminary plat that was submitted for review by the staff.
2. At least eight days prior to the meeting of the City Plan Commission during which the preliminary plat is scheduled for action, the applicant shall provide to the city manager or designee copies of the preliminary plat meeting the submission requirements. The city manager or designee shall then review the preliminary plat for compliance with staff recommendations.

Section 5. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.03 (Preliminary Plats), Section 19.03.030 (Decision) is amended in its entirety to read as follows:

19.03.030 - Decision.

- A. Review and Determination. The City Plan Commission shall review all preliminary plat applications, findings of the staff, findings of the city manager, or designee regarding compliance with staff recommendations, and any other information available. From all such information, the commission shall determine whether the preliminary plat as shown on the application meets the standards of this title.
- B. Approval or Denial. The City Plan Commission shall decide whether to approve, approve with conditions, or deny the preliminary plat application within thirty days from determination that the application is complete in accordance with Section 19.37.020. The action of the commission shall be entered in the minutes of the commission and the applicant shall be notified of the results.
 1. All changes or conditions required by the City Plan Commission as part of the preliminary plat approval shall be made a part of the record and any final plat or final subdivision improvement plans shall meet those required changes or conditions.
 2. On a preliminary plat with significant changes, the City Plan Commission may at the time a preliminary plat is approved subject to conditions, require a revised preliminary plat to be resubmitted.
 3. Where the City Plan Commission conditionally approves or disapproves a preliminary plat application, the City Plan Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement must:

- a. Be directly related to the requirements in Title 19 and specifications contained in the City of El Paso Design Standards for Construction (DSC); and
 - b. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval; and
 - c. May not be arbitrary.
4. After the conditional approval or disapproval of the preliminary plat application, the applicant may resubmit the preliminary plat along with a written response that clearly articulates how each condition for conditional approval or each reason for disapproval has been remedied.
 5. The City Plan Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved preliminary plat within fifteen days of receipt of resubmission and written response.
 6. It shall be the responsibility of the subdivider to insure that the preliminary plat satisfies all the requirements of the city code, the DSC and any other regulatory requirement.

Section 6. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.04 (Final Plat), Section 19.04.020 (Application and procedures) is amended in its entirety to read as follows:

19.04.020 - Application and procedures.

- A. **Responsible Official.** The city manager, or designee shall be the responsible official for a final plat, and the staff shall be the initial reviewing body for a final plat application.
- B. **Pre-Application Conference.** Refer to Section 19.37.050.
- C. **Prior Approved Preliminary Plat.** The final plat and all accompanying data shall conform to the preliminary plat as approved by the City Plan Commission, incorporating all approved exceptions and conditions. The final plat shall be prepared by a registered professional land surveyor.
- D. **Proof of Ownership.** The applicant shall furnish with the application to the city a current title commitment issued by a title insurance company authorized to do business in Texas policy, a title opinion letter from an attorney licensed to practice in Texas or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the plat. The final plat shall be signed (on the face of the plat in plain view) by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the plat. Such consent shall be subject to review and approval by the city attorney.
- E. **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 of the development services department.
- F. **Staff Review.** The staff shall review each final plat application to be placed on the agenda of the forthcoming meeting of the City Plan Commission. Staff shall recommend either:

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1. Approval of the final plat;
2. Denial of the final plat; or
3. Approval of the final plat with conditions.

G. Resubmittal Following Staff Review.

1. The applicant shall retain in his possession the original final plat that was submitted for review by the staff.
2. At least eight days prior to the meeting of the City Plan Commission during which the final plat is scheduled for review, the applicant shall provide to the city manager, or designee a copy meeting submission requirements of the final plat, with revisions made based on staff comments and recommendations. The city manager or designee shall then review the final plat for compliance with staff recommendations.

SECTION 7. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.04 (Final Plat), Section 19.04.030 (Decision) is amended in its entirety to read as follows:

19.04.030 - Decision.

- A. Review and Determination. The City Plan Commission shall review all final plat applications, findings of the staff, findings of the city manager, or designee regarding compliance with staff recommendations, and any other information available. From all such information, the commission shall determine whether the final plat as shown on the application meets the standards of this title.
- B. Approval or Denial. The City Plan Commission shall decide whether to approve, approve with conditions, or deny the final plat application. Upon approval of the final plat, the applicant shall correct and submit final plat copies to the city manager or designee so that required signatures can be obtained and recording completed. The reasons for any action taken by the commission, whether a final plat is approved, denied, or approved with conditions, shall be entered in the minutes of the commission.
 1. All changes or conditions required by the City Plan Commission as part of the final plat approval shall be made a part of the record.
 2. On a final plat with significant changes, the City Plan Commission may at the time a final plat is approved subject to conditions, require a revised final plat to be resubmitted.
 3. Where the City Plan Commission conditionally approves or disapproves a final plat application, the City Plan Commission shall provide the applicant a written statement

of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement must:

- a. Be directly related to the requirements in Title 19 and specifications contained in the City of El Paso Design Standards for Construction (DSC); and
 - b. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval and
 - c. May not be arbitrary.
4. After the conditional approval or disapproval of the final plat application, the applicant may resubmit the final plat along with a written response that clearly articulates how each condition for conditional approval or each reason for disapproval has been remedied.
 5. The City Plan Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved final plat within fifteen days of receipt of resubmission and written response.
 6. It shall be the responsibility of the subdivider to insure that the final plat satisfies all the requirements of the city code, the DSC and any other regulatory requirement.

SECTION 8. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.010 (General requirements for plat revisions) is amended in its entirety to read as follows:

19.07.010 - General requirements for plat revisions.

A. Applicability and Terminology.

1. The procedures in this chapter shall apply only if a property owner seeks to change any portion of a plat that has been filed of record with the county including a note or restriction on the face of the plat. If a property owner files an amending plat or a minor plat to make such changes, and does not violate the notice provisions for replats contained in Texas Statutes and in this chapter, a replat is not required.
2. The term "replat" includes changes to a recorded plat, restriction or covenant, whether the change is effected by vacating the recorded plat and approval of a new plat application, replatting without vacation, or approving an amended plat.

- B. City Action Required for Replats.** Except as expressly stated otherwise in this chapter, any change to a recorded plat or a portion of a plat that has been filed for record including a note or restriction shown on the face of a plat shall be subject to approval by the City Plan Commission. The requirements and procedures for approval of such changes to a recorded plat shall be in accordance with the requirements and procedures for a final plat application under Chapter 19.04 of this article. A replat of four or fewer lots may be

administratively approved as if it were a minor plat, in accordance with Chapter 19.06 provided public hearings and notice are not required.

- C. Construction Management. If a replat requires construction of additional improvements, the provisions of Chapter 19.08 of this article shall apply.
- D. Responsible Official. The city manager, or designee shall be the responsible official for a replat, and the staff shall be the initial reviewing body for a replat application.

SECTION 9. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.020 (Replats without vacation) is amended in its entirety to read as follows:

19.07.020 - Replats without vacation.

- A. Applicability. A replat of all or a portion of a recorded plat may be approved without vacation of the recorded plat, if:
 - 1. The replat is signed and acknowledged by only the owners of the property being replatted;
 - 2. Is approved by the City Plan Commission; and
 - 3. The replat does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.
- B. Application. The application for a replat of a subdivision shall meet all application requirements of a final plat.
- C. 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.
- D. Criteria for Approval. The replat of the subdivision shall meet all review and approval criteria for a final plat. The replat document shall be prepared by a registered professional land surveyor.
- E. Effect. Upon approval of the application, the replat may be recorded and is controlling over the previously recorded plat for the portion replatted.

SECTION 10. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.030 (Special replat requirements) is amended in its entirety to read as follows:

19.07.030 - Special replat requirements.

- A. Applicability. In addition to compliance with the requirements of Section 19.07.020 above, a replat without vacation of the preceding plat must conform to the requirements of this chapter if:
1. During the preceding five 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 residential units per lot; or
 2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
- B. Procedure after approval. If a proposed replat described by Subsection A above does not require a variance or exception, the responsible official, not later than the fifteenth day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll.
1. The notice of a replat approval must include the zoning designation of the property after the replat and a telephone number and the responsible official's e-mail address an owner of a lot may use to contact about the replat.
 2. This requirement for written notice does not apply to a proposed replat if the City Plan Commission held a public hearing, in accordance with Chapter 19.39, and proper notice, in accordance with Section 19.38.020, was given.
- C. Variance or Exception. If a proposed replat described by Subsection A above requires a variance or exception, a public hearing must be held by a City Plan Commission, in accordance with Chapter 19.39, and published and personal notices in accordance with Chapter 19.38 must be provided. Personal notice shall be accompanied by a copy of the language of Subsection D below.
- D. Protest. If the replat application is accompanied by a variance petition and is protested in accordance with this subsection, approval of the replat shall require the affirmative vote of at least three-fourths of the members of the City Plan Commission present at the meeting. For a legal protest, written instruments signed by the owners of at least twenty percent of the area of the lots or land immediately adjoining the area covered by the replat application and extending two hundred feet from that area, but within the original subdivision, must be filed with the commission prior to the close of the public hearing. In computing the percentage of land area under this chapter, the area of streets and alleys shall be included.
- E. Additional. The requirements of Subsection D shall not apply to any approval of a replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single- or two-family residential usage. Such designation must be noted on the recorded plat or in the legally recorded restriction applicable to such plat.

SECTION 11. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.040 (Amending plats) is amended in its entirety to read as follows:

19.07.040 - Amending plats.

- A. Purpose. The purpose of an amending plat shall be to provide an expeditious means of making minor revisions to a recorded plat consistent with provisions of state law.
- B. Applicability. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to achieve the following:
 - 1. Correct an error in a course or distance shown on the preceding plat;
 - 2. Add a course or distance that was omitted on the preceding plat;
 - 3. Correct an error in a real property description shown on the preceding plat;
 - 4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - 5. 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;
 - 6. 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, addresses and identification of adjacent recorded plats;
 - 7. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - a. Both lot owners join in the application for amending the plat,
 - b. Neither lot is abolished,
 - c. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and
 - d. The amendment does not have a material adverse effect on the property rights of the owners in the plat;
 - 8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - 9. Relocate one or more lot lines between one or more adjacent lots if:
 - a. The owners of all those lots join in the application for amending the plat,

- b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and
 - c. The amendment does not increase the number of lots;
- 10. Make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - a. The changes do not affect compliance with applicable zoning and other regulations of the city,
 - b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and
 - c. The area covered by the changes is located in an area that the city council has approved, after a public hearing, as a residential improvement area; or
- 11. Replat one or more lots fronting on an existing street if:
 - a. The owners of all those lots join in the application,
 - b. The amendment does not attempt to remove recorded covenants or restrictions,
 - c. The amendment does not increase the number of lots, and
 - d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- C. Effect. Upon approval by the city manager, or designee, an amending plat may be recorded and is controlling over the recorded plat without vacation of that plat.
- D. 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. The amending plat document shall be prepared by a registered professional land surveyor.
- E. Decision. The city manager or designee shall either approve, approve with conditions, or deny the application for an amending plat within ten days.
- F. Expiration. Approval of an amending plat shall expire if the plat is not submitted for recordation within the time period specified for recordation of a final plat.
- G. Additional. Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

SECTION 12. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.08 (Construction Plans and Management), Section 19.08.010 (Subdivision improvement plans) is amended in its entirety to read as follows:

19.08.010 - Subdivision improvement plans.

- A. Purpose. The purpose of subdivision improvement plans is to assure that public improvements required to be installed in order to serve a subdivision or a development are constructed in accordance with all standards of this title.
- B. Application contents. When required by this title either prior to or at the time of submission of an application for final plat approval by the City Plan Commission or by staff where administrative approval is authorized, the number of sets of subdivision improvement plans required by the DSC shall be submitted to the city manager or designee for review for code compliance. All applications shall be submitted on a form supplied by the planning official with the required information as stated on the application form. The subdivision improvement plans shall be submitted for the entire area covered by the subdivision application, and shall comply with all provisions of this title and the DSC. The final subdivision improvement plans including paving and stormwater engineering shall be submitted in one package and be approved or approved with conditions prior to the final plat recordation in accordance with this title. The subdivider shall provide and the subdivision improvement plans shall contain all applicable improvements required by this title and the DSC, including but not limited to the following details:
1. Grading and slope stabilization as regulated by Chapter 18.44;
 2. Drainage facilities;
 3. Water and wastewater plans, except water and wastewater plans in developments to be served by EPWU, which shall comply with subsection C. below;
 4. Streets and other rights-of-way (including sidewalks); on subdivisions within the city limits, sidewalks may be deferred until building permits are requested for a residential lot, except sidewalks at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued;
 5. Bikeway and transit improvements (where applicable);
 6. Survey monuments;
 7. Street lights;
 8. Traffic control signs and traffic signalization; traffic calming devices (where applicable);

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

It is the developer and his engineer's responsibility to put the plans together into one package and follow-up on their review.. Incomplete plans shall be returned to the applicant.

- C. The subdivider shall provide complete EPWU approved water and wastewater design plans on or before the final plat is submitted to the CPC. The subdivider shall have the option of using one of two processes for completion of the plans:
 1. EPWU prepares complete water and wastewater plans meeting EPWU requirements and standards.
 2. The subdivider's engineer prepares water and wastewater plans meeting TCEQ and EPWU requirements and submitting those plans to EPWU for approval. Upon approval by EPWU the water and wastewater plans shall be provided to the city. The EPWU shall have fifteen business days to accept the plans or reject the plans with comments for corrections. Failure to act within this timeframe shall permit the subdivider to proceed in accordance with Section 19.08.010(E)(3). This option to the subdivider shall not apply if any off-site extension or capital improvement infrastructure, master plan land studies, or any on-site oversized facilities to serve any areas adjacent to the subdivision are required.
 3. Plans will not be approved and the plat will not be recorded until water and wastewater designs meet TCEQ and EPWU/PSB design standards.
- D. Phasing plan. Where phasing is proposed for the construction and installation of the required subdivision improvements, approval of a phasing plan shall be required, provided, that all of the subdivision improvements are completed within the time period specified herein. The city manager or designee may approve, disapprove or conditionally approve the phasing proposed if the proposed phasing will provide for the orderly development of the subdivision with adequate access to all improvements. No phasing

plan shall be approved unless each phase has a complete drainage system, or security for all improvements that are not completed in the initial phase is provided in accordance with the methods and amount in Section 19.08.040 A.1., 2., or 3. No temporary drainage structures will be allowed. If the property contains an arroyo or flow path that requires improvements, security in accordance with the methods and amounts stated in Section 19.08.040 shall be provided regardless of the phasing, unless the improvements to the arroyo or flow path are completed in the initial phase. Where the city manager or designee disapproves a phasing plan, the subdivider may appeal the decision to the City Plan Commission upon a written request submitted to the city manager or designee. Whether or not the city manager or designee approves phasing at the time of the construction plan submission, a subdivider may request phasing and submit a phasing plan at any time prior to the expiration of the time period for completion of the subdivision improvements, or any authorized extension. A phasing plan submitted and approved by the city manager or designee after the approval of the construction plan submission, shall be considered an authorized amendment to the subdivision improvement plans and such approved phasing plan shall be attached to and incorporated as part of the approved subdivision improvement plans.

E. Responsible Official and Decision.

1. The city manager, or designee, shall be the responsible official for approval of subdivision improvement plans.
2. For subdivision improvement plans submitted following approval of a preliminary plat, the city manager, or designee shall provide the applicant or applicant's representative a determination of completeness as specified in Section 19.37.020.
3. The city manager, or designee shall decide whether to approve, approve with conditions, or deny the subdivision improvement plan application within thirty days from determination that the application is complete in accordance with Section 19.37.020.
4. Failure of the city manager or designee or EPWU, when applicable, to approve, approve with conditions, or deny the subdivision improvement plan application within the prescribed thirty days from the date that the submission is accepted for completeness, shall permit the subdivider to proceed with the construction of the subdivision improvements pursuant to the plans submitted; except that a subdivider may authorize in advance, or during the review, an extension to the prescribed time period for additional review by the city manager or designee or EPWU, when applicable. The request for a time extension may be for a period not to exceed thirty days and shall be provided in writing by a subdivider prior to the expiration of the prescribed review period. . It shall be the responsibility of the subdivider to insure that the subdivision improvement plans meet or exceed all the requirements of the City Code, EPWU requirements and any other regulatory requirements.
5. Distribution and Review. Once the subdivision improvement plans are approved, the property owner shall provide additional sets of the approved plans to the city, as specified by the city manager, or designee, for use during construction. A full set of the city approved and stamped subdivision improvement plans must be available for inspection on the job site at all times.

- F. Notification. The city manager, or designee, shall notify the applicant in accordance with Section 19.38.040 that the subdivision improvement plans are approved for construction. The city manager or designee shall also forward a written certification to all affected departments and agencies advising of the approval of the subdivision improvement plans. The certification shall identify the subdivision name, legal description, and acreage for which the approval was granted.
- G. Revised Plan Submission. In cases of conditional approval or disapproval of the subdivision improvement plan application, the process is as follows:
1. The city manager or designee shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition. Each condition or reason specified in the written statement must;
 - a. Be directly related to the requirements in Title 19 and specifications contained in the City of El Paso Design Standards for Construction (DSC); and
 - b. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval; and
 - c. May not be arbitrary.
 2. If the conditions of approval or disapproval of the plans require revision(s) to the subdivision improvement plans, one set shall be marked with objections noted (on the plans themselves) and returned to the applicant for correction.
 3. The applicant's engineer shall then correct the plans as requested and resubmit the appropriate number of sets required by the DSC of subdivision improvement plans to the city manager or designee for decision. The resubmission or the plans shall be accompanied by a written response that clearly articulates how each condition for conditional approval or each reason for disapproval has been remedied.
 4. The city manager or designee shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved subdivision improvement plans within fifteen days of receipt of resubmitted plans and written response. Failure of the city manager or designee to approve or disapprove within the prescribed period, shall permit the subdivider to proceed with the construction of the subdivision improvement plans pursuant to the plans submitted. It shall be the responsibility of the design engineer to certify and insure that the subdivision improvement plans satisfy all the requirements of the city code, the DSC and any other regulatory requirement.
 5. A copy of any subdivision improvement plans submitted within the extraterritorial jurisdiction, after approval by the city manager or designee, shall be forwarded to the county road and bridge administrator.
 6. Additional copies may be requested by the city manager or designee for informational purposes and review by other agencies.

7. The city will not require non-engineering related significant changes in the final subdivision improvement plans or final plat approval that contradict the preliminary plat approval, reserving the right to address life safety or other significant issues that should have been addressed in the preliminary plat.
- H. Criteria for Approval. The city manager, or designee, shall render a decision on the subdivision improvement plans in accordance with the following criteria:
1. The plans are consistent with the approved preliminary plat, and the proposed final plat;
 2. The plans conform to the development standards, and standards for adequate public facilities contained in this title; and
 3. The plans conform to the specifications contained in the City of El Paso Design Standards for Construction (DSC).
- A. Approval Required. Approval of subdivision improvement plans authorizes the property owner to install public improvements in rights-of-way and/or easements offered for dedication or previously dedicated to the public under an approved preliminary or final plat for which site preparation and other required permits have been approved.
- B. Acceptance Required. Acceptance of the subdivision improvements shall authorize the recording plat submission pursuant to this title. Where the city manager or designee has authorized public improvements to be deferred, the final plat may be approved, recorded and foundation or building permits may be issued, in accordance with Section 19.08.040.
- C. If the city is unable to comply with the time requirements specified in this chapter due to unforeseeable causes beyond the control and without the fault or negligence of the city, including, but not restricted to, acts of God, or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, orders of any kind of the government of the United States or the State of Texas, operation of law, disturbances, explosions and severe weather, such time restrictions shall be suspended until such time that the inability to perform due to the unforeseeable cause no longer exists.

SECTION 13. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.08 (Construction Plans and Management), Section 19.08.020 (Timing of public improvements, permit issuance) is amended in its entirety to read as follows:

19.08.020 - Timing of public improvements, permit issuance.

- A. Completion Prior to Final Plat. Except as provided below, after approval of a preliminary plat and before an approved final plat is recorded, the installation of all public improvements required to serve the subdivision, whether to be located off-site or on-site, including water, wastewater, drainage, roadway, park and open space improvements,

shall be finally completed and accepted in accordance with the approved subdivision improvement plans.

1. Park and open space improvements in this instance refer to public parks and public open space being constructed as part of the development by the developer.
2. If the development is being constructed in phases, and is platted in phases, park and open space improvements shall be completed as phases are constructed.
3. The installation of improvements required for proper drainage and prevention of soil erosion on individual residential lots, and improvements on any common areas shall be completed prior to final plat recordation in accordance with the approved subdivision improvement plans, except as provided below.

B. Installation after final plat recordation. The city manager, or designee, upon request of the applicant, may defer the obligation to install one or more public improvements to serve the subdivision for a period of up to three years after final plat approval. Deferral of the obligation to install public improvements for more than three years after final plat approval shall be conditioned on sufficient security as required in Section 19.08.040.

C. Off-Site Easements. All off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed by an instrument in a form approved by the city attorney or the EPWU for water and wastewater easements.

D. Permit issuance.

1. Grading permits. Any grading within the corporate limits or within the extraterritorial jurisdiction shall conform to the applicable portions of Chapter 18.44 (Grading) of this Code. Properties not required to file a subdivision application pursuant to this title shall only be subject to the requirements of Chapter 18.44.
 - a. Borrow or waste permit. A borrow or waste permit shall be issued by the city manager or designee pursuant to the requirements of Chapter 18.44
2. Building permits.
 - a. Plat recordation prior to issuance of permits: Whenever a subdivision is required by this title, no building permit shall be issued for any lot until the subdivision has been recorded and the requirements of Title 18 (Building and Construction) of this Code have been satisfied, except on industrial, commercial and multi-family developments, foundation or building permits may be issued by the building official prior to the plat being filed if:
 - i. On lots with only one industrial or commercial building, improvement plans for the subdivision have been reviewed and approved by the City and the improvements are in process.

- ii. On industrial, commercial and multi-family developments, lots with multiple buildings, or in subdivisions with multiple single family residential lots, permits for up to fifty percent of the buildings or fifty percent of the single family lots may be issued, provided improvement plans for the subdivision have been reviewed by the City and the improvements are in process. If the permits for more than fifty percent of the buildings or single family residential lots are requested, sufficient security as required by Section 19.08.040 must be provided in a form acceptable to the city manager, or designee, and accepted by the City prior to the issuance of foundation or building permits.
 - iii. The final signed copies of the plats for recordation have been delivered to the City to hold until the agreed upon recording date, along with all fees, certificates and until all other recording requirements have been met.
 - iv. Sidewalks, landscape, and curb ramps on subdivisions within City limits may be deferred until building permits are requested for residential lots; except sidewalks, landscape and curb ramps at the rear of double frontage lots must be installed, inspected, approved and accepted by the City prior to building permits being issued.
- b. Subdivision improvements required prior to issuance of permits: No building or foundation permit shall be issued for any lot, or portion thereof, within the subdivision until such time that the required subdivision improvements serving that lot have been completely installed, inspected, approved and accepted by the City as required in Section 19.08.050 of this title, except as follows:
 - i. On lots with only one industrial or commercial building, improvement plans for the subdivision have been reviewed and approved by the city and the improvements are in process.
 - ii. On industrial, commercial and multi-family developments, lots with multiple buildings, or in subdivisions with multiple single family residential lots, permits for up to fifty percent of the buildings or fifty percent of the single family lots may be issued, provided improvement plans for the subdivision have been reviewed by the City and the improvements are in process. If the permits for more than fifty percent of the buildings or single family residential lots are requested, sufficient security as required by Section 19.08.040 must be provided in a form acceptable to the city manager, or designee, and accepted by the City prior to the issuance of foundation or building permits.
 - iii. Under no circumstance will construction be allowed beyond the foundation stage until such time as fully charged fire hydrants and a driveable surface acceptable to the fire marshal have been provided to such site.
- 3. Occupancy Permits. Whenever a subdivision plat is required by this title, no occupancy permit shall be issued for any lot, or portion thereof, within the subdivision until such time that the required subdivision improvements serving that lot have been completely installed and inspected and approved by the city as required

in Section 19.08.050 of this title or security has been provided in accordance with Section 19.08.040. For purposes of this subsection, required subdivision improvements serving a lot shall mean the improvements to the street abutting the lot and extending to the nearest intersecting street outside the subdivision, and any required water, wastewater, drainage, fire protection or other utilities as required by the building official, or designee.

- E. Curb and gutter construction may be started prior to approval of all subdivision improvement plans provided the grading and paving plans have been approved and a permit has been issued by the city manager or designee. The risk for starting such construction prior to approval of all subdivision improvement plans shall be borne entirely by the subdivider.

SECTION 14. Title 19 (Subdivision and Development Plats), Article 4 (Specific Application and Processing Requirements), Chapter 19.38 (Notice Requirements), Section 19.38.020 (Personal notice for replats) is amended in its entirety to read as follows:

19.38.020 - Personal notice for replats.

- A. Whenever personal notice of a replat public hearing is required by state law or this title before the City Plan Commission, the responsible official shall cause notice to be sent by regular mail before the fifteenth calendar day before the hearing date to the following:
1. Each owner of real property located within the original subdivision within two hundred feet of the exterior boundary of the property in question;
 2. The applicant and/or property owner; and
 3. If the matter to be considered is an appeal, to the appellant.
- B. The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.
1. Notice shall be sent to each owner indicated on the most recently approved municipal tax roll for land inside the city limits, and, when required by state law, on the most recently approved El Paso County tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or El Paso County tax roll, notice may be given by publication.
 2. Notice shall be considered served by depositing the notice, properly addressed and first class postage prepaid, in the United States mail.

SECTION 15. Except as herein amended Title 19 (Subdivision and Development Plats) remains in full force and effect.

ADOPTED this _____ day of _____, 2019.

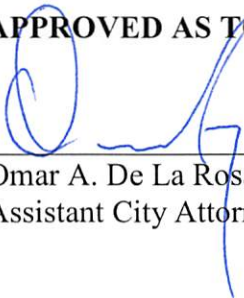
THE CITY OF EL PASO:

Dee Margo, Mayor

ATTEST:

Laura D. Prine, City Clerk

APPROVED AS TO FORM:



Omar A. De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe, Director
Planning & Inspections Department

MEMORANDUM

DATE: July 30, 2019

TO: The Honorable Mayor and City Council
Tommy Gonzalez, City Manager

FROM: Raul Garcia, Planning Program Manager

SUBJECT: Amendments to Title 19

The City Plan Commission (CPC), on July 25, 2019 voted 6-0 to recommend **approval** of the amendments. The CPC found that the amendments are in conformance with Plan El Paso. The CPC also determined that the amendments protect the best interest, health, safety and welfare of the public in general; and, that the amendments will have no negative effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

The Planning Division has not received any letters or phone calls in support or opposition of the amendments.

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~~since they are preliminary and not suitable for recording.~~ An applicant may request in writing an extension to the thirty-day approval period to allow additional time to comply with the requirements of this title and all other ordinances. The request may be for a period not to exceed thirty days.

B. Waiver of Right to Thirty-Day Action,

1. Responsible Official. The city manager or designee shall be the responsible official and the initial decision-maker for a waiver of right to thirty-day action or extension to the thirty-day action requirement for minor applications. The City Plan Commission shall be the responsible official and the initial decision-maker for a waiver of right to thirty-day action or extension to the thirty-day action requirement for all preliminary plat, final plat, development plat, replat, and land study applications.
2. Request. An applicant may request in writing a waiver of right to thirty-day action in relation to the decision time for preliminary plats, final plats, minor plats, amending or development plats, or replats, or land studies suitable for approving within recording of thirty days as mandated by state law. The waiver request shall contain a statement of the time for which a waiver is sought. With the exception of a request for a minor plat application, No waiver shall be granted for a period less than the commission's next regularly scheduled meeting. All waivers and extension requests, to include those relating to minor plat applications, shall be for a period not to exceed thirty days. 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. Received. Waiver and extension requests for preliminary plats, final plats, development plats, replats, and land studies may be received by the city manager, or designee prior to ~~or at~~ the city plan commission meeting agenda posting deadline at which action would have to be taken (based on the thirty-day requirement in state law) on the plat application. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the plat application at such meeting as scheduled.
4. Action. The City Plan Commission ~~city manager or designee~~ shall take action on the waiver of right to thirty-day action request within the thirty-day period for acting on the plat. If the waiver is granted, action on the plat application shall be waived for a certain period of time, consistent with the approved waiver.
5. Appeal of Initial Decision. A decision by the city manager or designee to deny a waiver of right to thirty-day action for a minor plat application may be appealed to the city plan commission in accordance with Chapter 19.45 of this title. Reserved.
6. Requirements Maintained. The granting of a waiver of right to thirty-day action request shall not be deemed in any way a waiver to any requirement within this title. A waiver from requirements herein is a separate and distinct process.

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

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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.

(Ord. 16882 § 2 (part), 2008)

(Ord. No. 17236, § 27, 11-10-2009; Ord. No. 17561, § 5, 5-17-2011; Ord. No. 18056, § 2, 8-6-2013), **Section 2, Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.02 (Land Studies), Section 19.02.020 (Application Procedures)** is amended in its entirety to read as follows:

19.02.020 - Application and procedures.

- A. Responsible Official. The city manager or designee shall be the responsible official for a land study.
- B. Submittal. All applications shall be submitted on a form supplied by the planning division with the required information as stated on the application form.
- C. Prior Approved Applications. An application for a land study shall not be approved unless all zoning amendments, including a request for a zoning change or a comprehensive plan, thoroughfare plan or other adopted plan amendment, which are necessary to authorize the uses or layout proposed on the land study have been approved and remain in effect for the land included in the land study. An application may be conditionally approved subject to the other required zoning and plan amendment approvals being approved.
- D. Accompanying Applications.
 1. An application for a land study may be accompanied by an application for rezoning approval provided that the rezoning application shall be decided first. ~~Such study is not a final plat submitted under state statute and is not subject to the thirty day approval limitation.~~
 2. An application for a land study may be accompanied by an application for approval of a preliminary plat for the first phase of the project, provided that the application for land study shall be decided first. The applicant may request simultaneous review, ~~and since both plats are not final plats submitted under state statute they are not subject to the thirty day approval limitation.~~ However, the applicant assumes all responsibility for any problems or issues created by simultaneous submission.
- E. General Requirements. The subdivider shall submit the land study application in a number and form that is in accordance with the application form, requirements and checklist as adopted by the city. The land study shall be accompanied by a processing fee established by the city council. The land study shall be prepared by an engineer at a scale of one inch equals two hundred feet, except where the city manager or designee approves a modified scale, on one or more twenty-four-inch by thirty-six-inch sheets which provides all of the following information:
 1. General arrangement of existing and proposed land uses, including, but not limited to, park and school sites, other public facilities, open space areas, floodplains and drainage

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ways. The land uses regulated by zoning must comply with both the location and layout as prescribed by the official adopted zoning map and zoning ordinance of the City of El Paso, unless a rezoning is proposed as part of the combined application;

2. The proposed density expressed in units per acre and population by land use. The proposed densities shown may not exceed those prescribed by the official adopted zoning map and zoning ordinance of the City of El Paso unless a rezoning is proposed as part of the combined application;
3. Proposed phasing of platting;
4. The proposed traffic circulation, layout, and width of all collector streets and arterial street classifications. The proposed street layout must comply with the adopted thoroughfare plan for the City of El Paso as to location and size of roadways, unless an amendment to such plans is proposed as part of the combined application;
5. Traffic impact/capacity study to determine the capacity need, if any, for additional traffic lanes (e.g., acceleration, deceleration, or turning), signalization and other roadway or traffic mitigation improvements. The traffic impact/capacity study shall be prepared in accordance with standards provided by the city;
6. Conceptual drainage plan indicating existing and proposed major stormwater sewer facilities. The drainage plans shall indicate the phasing plans and approximate location of temporary and permanent easements and rights-of-way that will be needed to accommodate the phasing plan and to carry the stormdrainage to its ultimate destination;
7. Layout and relationship of the proposed subdivision(s) to surrounding development, including the location, width, and names of all existing and platted streets, subdivisions, public ways, drainage channels, and other relevant features;
8. Existing and/or proposed zoning of the property and adjoining land;
9. Dimensions of the land study boundaries;
10. Existing contours of the tract in intervals appropriate to the topography as determined by the city manager, or designee, in accordance with the DSC and based on National Geodetic Vertical Datum (year to be specified on land study);
11. Existing major water and sanitary sewer facilities.

~~(Ord. 16882 § 2 (part), 2008)~~

~~(Ord. No. 17396, § 3, 8-24-2010)~~ **Section 3. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.02 (Land Studies), Section 19.02.030 (Decision) is amended in its entirety to read as follows:**

19.02.030 - Decision.

- A. The city plan commission shall decide whether to approve, approve with conditions, or deny the land study application. ~~The conditions may relate to, among other matters,~~

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~~compliance with the city's comprehensive plan, zoning ordinance and the availability and capacity of public improvements.~~

B. Prior to the decision, the CPC shall be provided with a full copy of the land study and all related documents that are needed to make a decision as to compliance with this title.

C. Where the city plan commission ~~conditionally approves or disapproves~~ a land study application, ~~the City Plan Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement must:~~

~~1a. Be directly related to the requirements in Title 19 and specifications contained in the City of El Paso Design Standards for Construction (DSC); and~~

~~2b. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval; and- the subdivider may submit a new or revised application for a land study in the manner and with the fees prescribed in these regulations.~~

~~3e. May not be arbitrary~~

~~D. After the conditional approval or disapproval of the land study, the applicant may resubmit the land study along with a written response that clearly articulates how each condition for conditional approval or each reason for disapproval has been remedied.~~

~~E. The City Plan Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved land study within fifteen days of receipt of resubmission and written response.~~

~~F. It shall be the responsibility of the subdivider to insure that the land study satisfies all the requirements of the city code, the DSC and any other regulatory requirement.~~

~~(Ord. 16882 § 2 (part), 2008)~~

~~Section 4, Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.03 (Preliminary Plats), Section 19.03.020 (Application and Procedures) is amended in its entirety to read as follows:~~

~~19.03.020 - Application and procedures.~~

~~A. Responsible Official and Initial Review. The city manager, or designee shall be the responsible official for a preliminary plat, and the staff shall be the initial reviewing body for a preliminary plat application.~~

~~B. Pre-Application Conference. Refer to Section 19.37.050 of Chapter 19.37.~~

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- C. 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.
- D. Preliminary engineering information in accordance with the DSC checklists meeting the submission requirements must also be submitted with the preliminary plat application.
- E. Accompanying Applications. An application for a preliminary plat may be accompanied by an application for rezoning approval, including a request for a planned development district, or a land study application. The rezoning application and land study application shall be decided first, or the preliminary plat shall be approved subject to their approvals. ~~Such plat is not a final plat submitted under state statute and is not subject to the thirty day approval limitation but a~~ Action in accordance with this title will be taken on the preliminary plat within thirty days.
- F. Staff Review. The staff shall review each preliminary plat application to be placed on the agenda of the forthcoming meeting of the city plan commission. The staff shall recommend either:
1. Approval of the preliminary plat;
 2. Denial of the preliminary plat;
 3. Approval of the preliminary plat with conditions; or
 4. Approval of the preliminary plat with recommendations regarding any exceptions provided for in this title.
- G. Resubmittal Following Staff Review.
1. The applicant shall retain in his possession a copy of the original preliminary plat that was submitted for review by the staff.
 2. At least eight days prior to the meeting of the city plan commission during which the preliminary plat is scheduled for action, the applicant shall provide to the city manager or designee copies of the preliminary plat meeting the submission requirements. The city manager or designee shall then review the preliminary plat for compliance with staff recommendations.

~~(Ord. 16882 § 2 (part), 2008)~~

~~(Ord. No. 17236, §§ 2, 8, 11-10 2009; Ord. No. 17396, § 4, 8-24 2010)~~

Section 5, Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.03 (Preliminary Plats), Section 19.03.030 (Decision) is amended in its entirety to read as follows:

19.03.030 - Decision.

- A. Review and Determination. The city plan commission shall review all preliminary plat applications, findings of the staff, findings of the city manager, or designee regarding compliance with staff recommendations, and any other information available. From all such

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information, the commission shall determine whether the preliminary plat as shown on the application meets the standards of this title.

B. Approval or Denial. The city plan commission shall decide whether to approve, approve with conditions, or deny the preliminary plat application within thirty days from determination that the application is complete in accordance with Section 19.37.020. The action of the commission shall be entered in the minutes of the commission and the applicant shall be notified of the results.

1. All changes or conditions required by the city plan commission as part of the preliminary plat approval shall be made a part of the record and any final plat or final subdivision improvement plans shall meet those required changes or conditions.

2. On a preliminary plat with significant changes, the CPC may at the time a preliminary plat is approved subject to conditions, require a revised preliminary plat to be resubmitted.

3. Where the city plan commission conditionally approves or disapproves a preliminary plat application, the City Plan Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement must:

a. Be directly related to the requirements in Title 19 and specifications contained in the City of El Paso Design Standards for Construction (DSC); and

b. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval; and

c. May not be arbitrary.

~~, with no additional fees, that meets the requirements and conditions of their approval. Such revised plat is to be submitted five days prior to the next available CPC meeting and reviewed and approved by the CPC, making sure all conditions of approval have been met.~~

~~3. Following denial of a preliminary plat application, the applicant may resubmit a revised preliminary plat application for approval by the city plan commission, provided that the revised application is approved prior to the original expiration date of any approved land study for the same land and provided that reapplication fees are paid in accordance with the adopted fee schedule.~~

4. After the conditional approval or disapproval of the preliminary plat application, the applicant may resubmit the preliminary plat along with a written response that clearly articulates how each condition for conditional approval or each reason for disapproval has been remedied.

5. The City Plan Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved preliminary plat within fifteen days of receipt of resubmission and written response.

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6. It shall be the responsibility of the subdivider to insure that the preliminary plat satisfies all the requirements of the city code, the DSC and any other regulatory requirement.

(Ord. 16882 § 2 (part), 2008)

(Ord. No. 17236, § 27, 11-10-2009) Section 6. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.04 (Final Plat), Section 19.04.020 (Application and procedures) is amended in its entirety to read as follows:

19.04.020 - Application and procedures.

- A. Responsible Official. The city manager, or designee shall be the responsible official for a final plat, and the staff shall be the initial reviewing body for a final plat application.
- B. Pre-Application Conference. Refer to Section 19.37.050.
- C. Prior Approved Preliminary Plat. The final plat and all accompanying data shall conform to the preliminary plat as approved by the city plan commission, incorporating all approved exceptions and conditions. The final plat shall be prepared by a registered professional land surveyor.
- D. Proof of Ownership. The applicant shall furnish with the application to the city a current title commitment issued by a title insurance company authorized to do business in Texas policy, a title opinion letter from an attorney licensed to practice in Texas or some other acceptable proof of ownership, identifying all persons having an ownership interest in the property subject to the plat. The final plat shall be signed (on the face of the plat in plain view) by each owner, or by the representative of the owners authorized to sign legal documents for the owners, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the plat. Such consent shall be subject to review and approval by the city attorney.
- E. 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 of the development services department.
- F. Staff Review.

~~1. The staff shall review each final plat application to be placed on the agenda of the forthcoming meeting of the city plan commission. Staff shall recommend either:~~

- a. Approval of the final plat;
- b. Denial of the final plat; or
- c. Approval of the final plat with conditions.

~~2. For a recommendation of approval, the staff must make only a finding that the final plat meets all standards set forth in this title, although the staff may make such additional findings as it deems appropriate. In case of a recommendation for denial or approval with conditions, the staff shall make specific findings of the reasons for denial or the~~

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~~imposition of conditions and shall cite the standards in this title which would be violated if the final plat were approved unconditionally.~~

G. Resubmittal Following Staff Review.

1. The applicant shall retain in his possession the original final plat that was submitted for review by the staff.
2. At least eight days prior to the meeting of the city plan commission during which the final plat is scheduled for review, the applicant shall provide to the city manager, or designee a copy meeting submission requirements of the final plat, with revisions made based on staff comments and recommendations. The city manager or designee shall then review the final plat for compliance with staff recommendations.

~~(Ord. 16882 § 2 (part), 2008)~~

~~(Ord. No. 17236, §§ 2, 8, 27, 11-10-2009; Ord. No. 17396, § 6, 8-24-2010)~~ **Section 7.** Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.04 (Final Plat), Section 19.04.030 (Decision) is amended in its entirety to read as follows:

19.04.030 - Decision.

A. Review and Determination. The city plan commission shall review all final plat applications, findings of the staff, findings of the city manager, or designee regarding compliance with staff recommendations, and any other information available. From all such information, the commission shall determine whether the final plat as shown on the application meets the standards of this title.

B. Approval or Denial. The city plan commission shall decide whether to approve, approve with conditions, or deny the final plat application. Upon approval of the final plat, the applicant shall correct and submit final plat copies to the city manager or designee so that required signatures can be obtained and recording completed. ~~If any conditions are attached to the commission's approval, the final plat copies shall be so corrected prior to signature by any city official.~~ The reasons for any action taken by the commission, whether a final plat is approved, denied, or approved with conditions, shall be entered in the minutes of the commission.

1. All changes or conditions required by the city plan commission as part of the final plat approval shall be made a part of the record.

2. On a final plat with significant changes, the CPC may at the time a final plat is approved subject to conditions, require a revised final plat to be resubmitted.

3. Where the city plan commission conditionally approves or disapproves a final plat application, the City Plan Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement must:

a. Be directly related to the requirements in Title 19 and specifications contained in the City of El Paso Design Standards for Construction (DSC); and

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b. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval and-

c. May not be arbitrary.

~~C. Resubmission Following Denial. Following denial of a final plat application, the applicant may resubmit a revised final plat application, for approval by the city plan commission, provided that the revised application is approved prior to the original expiration date of any approved land study or preliminary plat for the same land, any revised final subdivision improvement plans are provided to staff, and provided that reapplication fees are paid in accordance with the adopted fee schedule.~~

4. After the conditional approval or disapproval of the final plat application, the applicant may resubmit the final plat along with a written response that clearly articulates how each condition for conditional approval or each reason for disapproval has been remedied.

5. The City Plan Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved final plat within fifteen days of receipt of resubmission and written response.

6. It shall be the responsibility of the subdivider to insure that the final plat satisfies all the requirements of the city code, the DSC and any other regulatory requirement.

(Ord. 16882 § 2 (part), 2008)

(Ord. No. 17236, § 27, 11-10-2009)

Section 8, Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.010 (General requirements for plat revisions) is amended in its entirety to read as follows:

19.07.010 - General requirements for plat revisions.

A. Applicability and Terminology.

1. The procedures in this chapter shall apply only if a property owner seeks to change any portion of a plat that has been filed of record with the county including a note or restriction on the face of the plat. If a property owner files an amending plat or a minor plat to make such changes, and does not violate the notice provisions for replats contained in Texas Statutes and in this chapter, a replat is not required.
2. The term "replat" includes changes to a recorded plat, restriction or covenant, whether the change is effected by vacating the recorded plat and approval of a new plat application, replatting without vacation, or approving an amended plat.

B. City Action Required for Replats. Except as expressly stated otherwise in this chapter, any change to a recorded plat or a portion of a plat that has been filed for record including a note or restriction shown on the face of a plat shall be subject to approval by the city plan commission. The requirements and procedures for approval of such changes to a recorded

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plat shall be in accordance with the requirements and procedures for a final plat application under Chapter 19.04 of this article. A replat of four or fewer lots may be administratively approved as if it were a minor plat, in accordance with Chapter 19.06 provided public hearings and notice are not required.

- C. Construction Management. If a replat requires construction of additional improvements, the provisions of Chapter 19.08 of this article shall apply.

D. Responsible Official. The city manager, or designee shall be the responsible official for a replat, and the staff shall be the initial reviewing body for a replat application.

(Ord. 16882 § 2 (part), 2008)

Section 9, Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.020 (Replats without vacation) is amended in its entirety to read as follows:

19.07.020 - Replots without vacation.

- A. Applicability. A replat of all or a portion of a recorded plat may be approved without vacation of the recorded plat, if:

1. The replat is signed and acknowledged by only the owners of the property being replatted;
2. Is approved by the City Plan Commission after a public hearing on the replat; and
3. The replat does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.

~~B. Notice and Hearing. Published notice of the public hearing on the replat application shall be given in accordance with Chapter 19.38. The hearing shall be conducted by the city plan commission in accordance with Chapter 19.39.~~

- C. Application. The application for a replat of a subdivision shall meet all application requirements of a final plat.

- D. 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.

- E. Criteria for Approval. The replat of the subdivision shall meet all review and approval criteria for a final plat. The replat document shall be prepared by a registered professional land surveyor.

- F. Effect. Upon approval of the application, the replat may be recorded and is controlling over the previously recorded plat for the portion replatted.

(Ord. 16882 § 2 (part), 2008)

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Section 10, Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.030 (Special replat requirements) is amended in its entirety to read as follows:

19.07.030 - Special replat requirements.

A. Applicability. In addition to compliance with the requirements of Section 19.07.020 above, a replat without vacation of the preceding plat must conform to the requirements of this chapter if:

1. During the preceding five 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 residential units per lot; or
2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

~~B. Exception. The requirements of this chapter shall not apply to any approval of a replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single or two family residential usage. Such designation must be noted on the recorded plat or in the legally recorded restriction applicable to such plat.~~

~~B. Procedure after approval. If a proposed replat described by Subsection A above does not require a variance or exception, the responsible official, not later than the fifteenth day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll.~~

~~1. The notice of a replat approval must include the zoning designation of the property after the replat and a telephone number and the responsible official's e-mail address an owner of a lot may use to contact about the replat.~~

~~2. This requirement for written notice does not apply to a proposed replat if the City Plan Commission held a public hearing, in accordance with Chapter 19.39, and proper notice, in accordance with Section 19.38.020, was given.~~

~~C. Variance or Exception. If a proposed replat described by Subsection A above requires a variance or exception, a public hearing must be held by a City Plan Commission, in accordance with Chapter 19.39, and published and personal notices in accordance with Chapter 19.38 must be provided. Personal notice shall be accompanied by a copy of the language of Subsection D below.~~

~~C. Notice and Hearing. Published and personal notice of the public hearing on the replat application shall be given in accordance with Chapter 19.38. Personal notice shall be accompanied by a copy of the language of subsection D below. The hearing shall be conducted by the city plan commission in accordance with Chapter 19.39.~~

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D. Protest. If the replat application is accompanied by a variance petition and is protested in accordance with this subsection, approval of the replat shall require the affirmative vote of at least three-fourths of the members of the city plan commission present at the meeting. For a legal protest, written instruments signed by the owners of at least twenty percent of the area of the lots or land immediately adjoining the area covered by the replat application and extending two hundred feet from that area, but within the original subdivision, must be filed with the commission prior to the close of the public hearing. In computing the percentage of land area under this chapter, the area of streets and alleys shall be included.

E. Additional. The requirements of Subsection D shall not apply to any approval of a replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single- or two-family residential usage. Such designation must be noted on the recorded plat or in the legally recorded restriction applicable to such plat.

~~(Ord. 16882 § 2 (part), 2008)~~

Section 11, Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.07 (Revisions to Recorded Plats), Section 19.07.040, (Amending plats) is amended in its entirety to read as follows:

19.07.040 - Amending plats.

- A. Purpose. The purpose of an amending plat shall be to provide an expeditious means of making minor revisions to a recorded plat consistent with provisions of state law.
- B. Applicability. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to achieve the following:
1. Correct an error in a course or distance shown on the preceding plat;
 2. Add a course or distance that was omitted on the preceding plat;
 3. Correct an error in a real property description shown on the preceding plat;
 4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 5. 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;
 6. 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, addresses and identification of adjacent recorded plats;
 7. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - a. Both lot owners join in the application for amending the plat,
 - b. Neither lot is abolished,

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- c. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and
 - d. The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- 8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- 9. Relocate one or more lot lines between one or more adjacent lots if: -
 - a. The owners of all those lots join in the application for amending the plat,
 - b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and
 - c. The amendment does not increase the number of lots;
- 10. Make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if: -or
 - a. The changes do not affect compliance with applicable zoning and other regulations of the city,
 - b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and
 - c. The area covered by the changes is located in an area that the city council has approved, after a public hearing, as a residential improvement area; or
- 11. Replat one or more lots fronting on an existing street if: -
 - a. The owners of all those lots join in the application,
 - b. The amendment does not attempt to remove recorded covenants or restrictions,
 - c. The amendment does not increase the number of lots, and
 - d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- C. Effect. Upon approval by the city manager, or designee, an amending plat may be recorded and is controlling over the recorded plat without vacation of that plat.
- D. 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. The amending plat document shall be prepared by a registered professional land surveyor.
- E. Decision. The city manager or designee shall either approve, approve with conditions, or deny the application for an amending plat within ten days.
- ~~F. Criteria for Approval. The city manager or designee shall decide whether to approve, conditionally approve or deny the amending plat application based upon the following criteria:~~
 - ~~1. The amending plat makes only those changes to the recorded plat that are allowed under subsection B;~~

~~2. If a correction in courses and distances of lot lines between two adjacent lots is proposed:~~

- ~~a. Both lot owners join in the application for amending the plat,~~
- ~~b. Neither lot is abolished,~~
- ~~c. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and~~
- ~~d. The amendment does not have a material adverse effect on the property rights of the owners in the plat;~~

~~3. If relocation of one or more lot lines between one or more adjacent lots is proposed:~~

- ~~a. The owners of all those lots join in the application for amending the plat,~~
- ~~b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and~~
- ~~c. The amendment does not increase the number of lots;~~

~~4. If six or fewer lots are proposed to be added to a subdivision:~~

- ~~a. The changes do not affect compliance with applicable zoning and other regulations of the city,~~
- ~~b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements, and~~
- ~~c. The area covered by the changes is located in an area that the city council has approved, after a public hearing, as a residential improvement area;~~

~~5. If lots fronting on an existing street are to be replatted:~~

- ~~a. The owners of all those lots join in the application,~~
- ~~b. The amendment does not attempt to remove recorded covenants or restrictions,~~
- ~~c. The amendment does not increase the number of lots, and~~
- ~~d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.~~

~~F. G.~~ Expiration. Approval of an amending plat shall expire if the plat is not submitted for recordation within the time period specified for recordation of a final plat.

G. Additional. Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

~~(Ord. 16882 § 2 (part), 2008)~~

~~(Ord. No. 17236, § 2, 11-10-2009; Ord. No. 17251, § 6, 12-15-2009; Ord. No. 17396, § 8, 8-24-2010)~~

Section 12, Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.08 (Construction Plans and Management), Section 19.08.010 (Subdivision improvement plans) is amended in its entirety to read as follows:

19.08.010 - Subdivision improvement plans.

- A. Purpose. The purpose of subdivision improvement plans is to assure that public improvements required to be installed in order to serve a subdivision or a development are constructed in accordance with all standards of this title.
- B. Application contents. When required by this title either prior to or at the time of submission of an application for final plat approval by the city plan commission or by staff where administrative approval is authorized, the number of sets of subdivision improvement plans required by the DSC shall be submitted to the city manager or designee for review for code compliance. All applications shall be submitted on a form supplied by the planning official with the required information as stated on the application form. The subdivision improvement plans shall be submitted for the entire area covered by the subdivision application, and shall comply with all provisions of this title and the DSC. The final subdivision improvement plans including paving and stormwater engineering shall be submitted in one package and be approved or approved with conditions prior to the final plat recordation in accordance with this title. The subdivider shall provide and the subdivision improvement plans shall contain all applicable improvements required by this title and the DSC, including but not limited to the following details:
1. Grading and slope stabilization as regulated by Chapter 18.44;
 2. Drainage facilities;
 3. Water and wastewater plans, except water and wastewater plans in developments to be served by EPWU, which shall comply with subsection C. below;
 4. Streets and other rights-of-way (including sidewalks); on subdivisions within the city limits, sidewalks may be deferred until building permits are requested for a residential lot, except sidewalks at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued;
 5. Bikeway and transit improvements (where applicable);
 6. Survey monuments;
 7. Street lights;
 8. Traffic control signs and traffic signalization; traffic calming devices (where applicable);
 9. Landscaping; on subdivisions within the city limits, landscape (street trees) may be deferred until building permits are requested for a residential lot, except landscape at the rear of double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued;
 10. Curb ramps; on subdivisions within the city limits, curb ramps may be deferred until building permits are requested for a residential lot, except curb ramps at the rear of

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double frontage lots must be installed, inspected, approved and accepted by the city prior to building permits being issued;

11. Street pavement markings;
12. Parkland and open space; and
13. Provisions for Arroyo protection.

It is the developer and his engineer's responsibility to put the plans together into one package and follow-up on their review. ~~The thirty-day State of Texas Statute for approval of plats only applies to final approval of plats and does not apply to engineering and subdivision improvement plans.~~ Incomplete plans shall be returned to the applicant.

- C. The subdivider shall provide complete EPWU approved water and wastewater design plans on or before the final plat is submitted to the CPC. The subdivider shall have the option of using one of two processes for completion of the plans:
 1. EPWU prepares complete water and wastewater plans meeting EPWU requirements and standards.
 2. The subdivider's engineer prepares water and wastewater plans meeting TCEQ and EPWU requirements and submitting those plans to EPWU for approval. Upon approval by EPWU the water and wastewater plans shall be provided to the city. The EPWU shall have fifteen business days to accept the plans or reject the plans with comments for corrections. Failure to act within this timeframe shall permit the subdivider to proceed in accordance with Section 19.08.010(E)(3). This option to the subdivider shall not apply if any off-site extension or capital improvement infrastructure, master plan land studies, or any on-site oversized facilities to serve any areas adjacent to the subdivision are required.
 3. Plans will not be approved and the plat will not be recorded until water and wastewater designs meet TCEQ and EPWU/PSB design standards.
- D. Phasing plan. Where phasing is proposed for the construction and installation of the required subdivision improvements, approval of a phasing plan shall be required, provided, that all of the subdivision improvements are completed within the time period specified herein. The city manager or designee may approve, disapprove or conditionally approve the phasing proposed if the proposed phasing will provide for the orderly development of the subdivision with adequate access to all improvements. No phasing plan shall be approved unless each phase has a complete drainage system, or security for all improvements that are not completed in the initial phase is provided in accordance with the methods and amount in Section 19.08.040 A.1., 2., or 3. No temporary drainage structures will be allowed. If the property contains an arroyo or flow path that requires improvements, security in accordance with the methods and amounts stated in Section 19.08.040 shall be provided regardless of the phasing, unless the improvements to the arroyo or flow path are completed in the initial phase. Where the city manager or designee disapproves a phasing plan, the subdivider may appeal the decision to the city plan commission upon a written request submitted to the city manager or designee. Whether or not the city manager or designee approves phasing at the time of the construction plan submission, a subdivider may request phasing and submit a phasing plan at any time prior to the expiration of the time period for completion of the subdivision improvements, or any authorized extension. A phasing plan submitted and

approved by the city manager or designee after the approval of the construction plan submission, shall be considered an authorized amendment to the subdivision improvement plans and such approved phasing plan shall be attached to and incorporated as part of the approved subdivision improvement plans.

E. Responsible Official and Decision.

1. The city manager, or designee, shall be the responsible official for approval of subdivision improvement plans.

2. For ~~final~~ subdivision improvement plans submitted following approval of a preliminary plat, the city manager, or designee shall provide the applicant or applicant's representative approve, approve subject to modifications, or reject the subdivision improvement plans within fifteen working days of a determination of completeness as specified in Section 19.37.020, which shall be made within one working day of submission, unless an extension is granted by the city manager or designee.

3. The city manager, or designee shall decide whether to approve, approve with conditions, or deny the subdivision improvement plan application within thirty days from determination that the application is complete in accordance with Section 19.37.020.

4.3. Failure of the city manager or designee or EPWU, when applicable, to approve, approve with conditions, or deny the subdivision improvement plan application provide written comments within the prescribed thirtyfifteen working days from the date that the submission is accepted for completeness, shall permit the subdivider to proceed with the construction of the subdivision improvements pursuant to the plans submitted; except that a subdivider may authorize in advance, or during the review, an extension to the prescribed time period for additional review by the city manager or designee or EPWU, when applicable. The authorization request for a time extension may be for a period not to exceed thirty days and shall be provided in writing by a subdivider prior to the expiration of the prescribed review period, fifteen working days. It shall be the responsibility of the subdivider to insure that the subdivision improvement plans meet or exceed all the requirements of the City Code, EPWU requirements and any other regulatory requirements.

5.4. Distribution and Review. Once the subdivision improvement plans are approved, the property owner shall provide additional sets of the approved plans to the city, as specified by the city manager, or designee, for use during construction. A full set of the city approved and stamped subdivision improvement plans must be available for inspection on the job site at all times.

F. Notification. The city manager, or designee, shall notify the applicant in accordance with ~~Chapter Section~~ 19.38.040 that the subdivision improvement plans are approved ~~or accepted~~ for construction. The city manager or designee shall also forward a written certification to all affected departments and agencies advising of the approval of the subdivision improvement plans. The certification shall identify the subdivision name, legal description, and acreage for which the approval was granted.

G. Revised Plan Submission. In cases of conditional approval or disapproval of the subdivision improvement plan application, the process is as follows:

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1. The city manager or designee shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition. Each condition or reason specified in the written statement must:

a. Be directly related to the requirements in Title 19 and specifications contained in the City of El Paso Design Standards for Construction (DSC); and

b. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval; and

c. May not be arbitrary.

2. If the conditions of approval or disapproval of the plans require revision(s) to the subdivision improvement plans, one set shall be marked with objections noted (on the plans themselves ~~and/or in memo format~~) and returned to the applicant for correction; ~~whereupon the applicant's engineer shall correct the plans as requested and resubmit them for decision.~~

3. The applicant's engineer shall then correct the plans as requested and resubmit the appropriate number of sets required by the DSC of subdivision improvement plans to the city manager or designee for decision. The resubmission of the plans shall be accompanied by a written response that clearly articulates how each condition for conditional approval or each reason for disapproval has been remedied. ~~number of sets required by the DSC of subdivision improvement plans revised to reflect the required changes shall be submitted to the city manager or designee within fifteen working days of receipt of the official notice of required revisions. Failure of the subdivider to submit the revised plans to the city manager or designee within the prescribed period shall necessitate the total resubmission and payment of appropriate fees of the subdivision improvement plans; except that a subdivider may request in advance an extension to the prescribed time period from the city manager or designee for additional time to submit the revised plans.~~

4. The city manager or designee shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved subdivision improvement plans ~~revised subdivision improvement plans within five working fifteen days of receipt of resubmitted plans and written response based on revisions requested at the initial review of the plans. Failure of the city manager or designee to approve or disapprove within the prescribed period, shall permit the subdivider to proceed with the construction of the subdivision improvement plans pursuant to the plans submitted. It shall be the responsibility of the design engineer to certify and insure that the subdivision improvement plans satisfy all the requirements of the city code, the DSC and any other regulatory requirement.~~

4. If the city manager or designee fails to review the revised subdivision improvement plans within the prescribed period, it shall permit the subdivider to proceed with the construction of the subdivision improvements pursuant to the plans submitted. It shall be the responsibility of the subdivider to insure that the subdivision improvement plans satisfy all the requirements of the city code, the DSC and any other regulatory requirement.

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~~5. Subdivision improvement plans that do not contain all corrections shall be returned to the applicant's engineer with notice to the applicant. The third submission of corrections will require additional fees in accordance with the schedule for additional review time. At the time of submission, the design engineer shall certify that the subdivision improvement plans meet the requirements of the ordinances.~~

65. A copy of any subdivision improvement plans submitted within the extraterritorial jurisdiction, after approval by the city manager or designee, shall be forwarded to the county road and bridge administrator.

76. Additional copies may be requested by the city manager or designee for informational purposes and review by other agencies.

87. The city will not require non-engineering related significant changes in the final subdivision improvement plans or final plat approval that contradict the preliminary plat approval, reserving the right to address life safety or other significant issues that should have been addressed in the preliminary plat.

H. Criteria for Approval. The city manager, or designee, shall render a decision on the subdivision improvement plans in accordance with the following criteria:

1. The plans are consistent with the approved preliminary plat, and the proposed final plat;
2. The plans conform to the development standards, and standards for adequate public facilities contained in this title; and
3. The plans conform to the specifications contained in the City of El Paso Design Standards for Construction (DSC).

I. Approval Required. ~~Approval of subdivision improvement plans authorizes the property owner to install public improvements in rights-of-way and/or easements offered for dedication or previously dedicated to the public under an approved preliminary or final plat for which site preparation and other required permits have been approved. Subdivision improvement plans must be approved or accepted and authorized for construction by the city manager, or designee, in accordance with this chapter prior to plat recordation. Where the city manager or designee has authorized public improvements to be deferred, the final plat may be approved, recorded and foundation or building permits may be issued, in accordance with Section 19.08.040.~~

J. ~~Acceptance Required. Effect. Approval Acceptance~~ of the subdivision improvements ~~plans for code compliance pursuant to this title~~ shall authorize the recording plat submission pursuant to this title. ~~Where the city manager or designee has authorized public improvements to be deferred, the final plat may be approved, recorded and foundation or building permits may be issued, in accordance with Section 19.08.040. Approval of subdivision improvement plans authorizes the property owner to install public improvements in rights of way and/or easements offered for dedication or previously dedicated to the public under an approved preliminary or final plat for which site preparation and other required permits have been approved.~~

K. If the city is unable to comply with the time requirements specified in this chapter due to unforeseeable causes beyond the control and without the fault or negligence of the city,

including, but not restricted to, acts of God, or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, orders of any kind of the government of the United States or the State of Texas, operation of law, disturbances, explosions and severe weather, such time restrictions shall be suspended until such time that the inability to perform due to the unforeseeable cause no longer exists.

~~(Ord. 16882 § 2 (part), 2008)~~

~~(Ord. No. 17236, §§ 11, 28, 11-10-2009; Ord. No. 17396, § 9, 8-24-2010; Ord. No. 17811, § 1, 6-5-2012, eff. 6-11-2012; Ord. No. 17905, § 4, 11-6-2012; Ord. No. 18056, § 9, 8-6-2013)~~

Section 13. Title 19 (Subdivision and Development Plats), Article 1 (Platting Procedures), Chapter 19.08 (Construction Plans and Management), Section 19.08.020 (Timing of public improvements, permit issuance) is amended in its entirety to read as follows:

19.08.020 - Timing of public improvements, permit issuance.

- A. Completion Prior to Final Plat. Except as provided below, after approval of a preliminary plat and before an approved final plat is recorded, the installation of all public improvements required to serve the subdivision, whether to be located off-site or on-site, including water, wastewater, drainage, roadway, park and open space improvements, shall be finally completed and accepted in accordance with the approved subdivision improvement plans.
1. Park and open space improvements in this instance refer to public parks and public open space being constructed as part of the development by the developer.
 2. If the development is being constructed in phases, and is platted in phases, park and open space improvements shall be completed as phases are constructed.
 3. The installation of improvements required for proper drainage and prevention of soil erosion on individual residential lots, and improvements on any common areas shall be completed prior to final plat recordation in accordance with the approved subdivision improvement plans, except as provided below.
- B. Installation after final plat recordation. The city manager, or designee, upon request of the applicant, may defer the obligation to install one or more public improvements to serve the subdivision for a period of up to three years after final plat approval. Deferral of the obligation to install public improvements for more than three years after final plat approval shall be conditioned on sufficient security as required in Section 19.08.040.
- C. Off-Site Easements. All off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed by an instrument in a form approved by the city attorney or the EPWU for water and wastewater easements.
- D. Permit issuance.
1. Grading permits. Any grading within the corporate limits or within the extraterritorial jurisdiction shall conform to the applicable portions of Chapter 18.44 (Grading) of this

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Code. Properties not required to file a subdivision application pursuant to this title shall only be subject to the requirements of Chapter 18.44.

- a. Borrow or waste permit. A borrow or waste permit shall be issued by the city manager or designee pursuant to the requirements of Chapter 18.44

2. Building permits.

- a. Plat recordation prior to issuance of permits: Whenever a subdivision is required by this title, no building permit shall be issued for any lot until the subdivision has been recorded and the requirements of Title 18 (Building and Construction) of this Code have been satisfied, except on industrial, commercial and multi-family developments, foundation or building permits may be issued by the building official prior to the plat being filed if:
 - i. On lots with only one industrial or commercial building, improvement plans for the subdivision have been reviewed and approved by the City and the improvements are in process.
 - ii. On industrial, commercial and multi-family developments, lots with multiple buildings, or in subdivisions with multiple single family residential lots, permits for up to fifty percent of the buildings or fifty percent of the single family lots may be issued, provided improvement plans for the subdivision have been reviewed by the City and the improvements are in process. If the permits for more than fifty percent of the buildings or single family residential lots are requested, sufficient security as required by Section 19.08.040 must be provided in a form acceptable to the city manager, or designee, and accepted by the City prior to the issuance of foundation or building permits.
 - iii. The final signed copies of the plats for recordation have been delivered to the City to hold until the agreed upon recording date, along with all fees, certificates and until all other recording requirements have been met.
 - iv. Sidewalks, landscape, and curb ramps on subdivisions within City limits may be deferred until building permits are requested for residential lots; except sidewalks, landscape and curb ramps at the rear of double frontage lots must be installed, inspected, approved and accepted by the City prior to building permits being issued.
- b. Subdivision improvements required prior to issuance of permits: No building or foundation permit shall be issued for any lot, or portion thereof, within the subdivision until such time that the required subdivision improvements serving that lot have been completely installed, inspected, approved and accepted by the City as required in Section 19.08.050 of this title, except as follows:
 - i. On lots with only one industrial or commercial building, improvement plans for the subdivision have been reviewed and approved by the city and the improvements are in process.
 - ii. On industrial, commercial and multi-family developments, lots with multiple buildings, or in subdivisions with multiple single family residential lots, permits for up to fifty percent of the buildings or fifty percent of the single

family lots may be issued, provided improvement plans for the subdivision have been reviewed by the City and the improvements are in process. If the permits for more than fifty percent of the buildings or single family residential lots are requested, sufficient security as required by Section 19.08.040 must be provided in a form acceptable to the city manager, or designee, and accepted by the City prior to the issuance of foundation or building permits.

iii. Under no circumstance will construction be allowed beyond the foundation stage until such time as fully charged fire hydrants and a driveable surface acceptable to the fire marshal have been provided to such site.

3. Occupancy Permits. Whenever a subdivision plat is required by this title, no occupancy permit shall be issued for any lot, or portion thereof, within the subdivision until such time that the required subdivision improvements serving that lot have been completely installed and inspected and approved by the city as required in Section 19.08.050 of this title or security has been provided in accordance with Section 19.08.040. For purposes of this subsection, required subdivision improvements serving a lot shall mean the improvements to the street abutting the lot and extending to the nearest intersecting street outside the subdivision, and any required water, wastewater, drainage, fire protection or other utilities as required by the building official, or designee.

E. Curb and gutter construction may be started prior to approval of all subdivision improvement plans provided the grading and paving plans have been approved and a permit has been issued by the city manager or designee. The risk for starting such construction prior to approval of all subdivision improvement plans shall be borne entirely by the subdivider.

(Ord. 16882 § 2(part), 2008)

(Ord. No. 17236, §§ 12, 27, 11-10-2009; Ord. No. 17517, § 1, 3-29-2011; Ord. No. 18056, § 10, 8-6-2013; Ord. No. 18309, § 1, 1-20-2015)

Section 14, Title 19 (Subdivision and Development Plats), Article 4 (Specific Application and Processing Requirements), Chapter 19.38 (Notice Requirements), Section 19.38.020 (Personal notice for replats) is amended in its entirety to read as follows:

19.38.020 - Personal notice for replats.

A. Whenever personal notice of a replat public hearing is required by state law or this title before the city plan commission, the responsible official shall cause notice to be sent by regular mail before the ~~tenth~~**fifteenth** calendar day before the hearing date to the following:

1. Each owner of real property located within the original subdivision within two hundred feet of the exterior boundary of the property in question;
2. The applicant and/or property owner; and
3. If the matter to be considered is an appeal, to the appellant.

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B. The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.

1. Notice shall be sent to each owner indicated on the most recently approved municipal tax roll for land inside the city limits, and, when required by state law, on the most recently approved El Paso County tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or El Paso County tax roll, notice may be given by publication.
2. Notice shall be considered served by depositing the notice, properly addressed and first class postage prepaid, in the United States mail.

~~(Ord. 16882 § 2 (part), 2008)~~

Section 15, Except as herein amended, Title 19 (Subdivision and Development Plats) remains in full force and effect.

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AN ACT

relating to county and municipal approval procedure for land development applications.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.001, Local Government Code, is amended by amending Subdivision (2) and adding Subdivision (3) to read as follows:

(2) "Plan" means a subdivision development plan, including a subdivision plan, subdivision construction plan, site plan, land development application, and site development plan.

(3) "Plat" includes a preliminary plat, general plan, final plat, and replat.

SECTION 2. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0085 to read as follows:

Sec. 212.0085. APPROVAL PROCEDURE: APPLICABILITY. The approval procedures under this subchapter apply to a municipality regardless of whether the municipality has entered into an interlocal agreement, including an interlocal agreement between a municipality and county under Section 242.001(d).

SECTION 3. The heading to Section 212.009, Local Government Code, is amended to read as follows:

Sec. 212.009. APPROVAL PROCEDURE: INITIAL APPROVAL.

SECTION 4. Section 212.009, Local Government Code, is amended by amending Subsections (a), (b), (c), and (d) and adding

Subsections (b-1) and (b-2) to read as follows:

(a) The municipal authority responsible for approving plats shall approve, approve with conditions, or disapprove ~~[act on]~~ a plan or plat within 30 days after the date the plan or plat is filed. A plan or plat is ~~[considered]~~ approved by the municipal authority unless it is disapproved within that period and in accordance with Section 212.0091.

(b) If an ordinance requires that a plan or plat be approved by the governing body of the municipality in addition to the planning commission, the governing body shall approve, approve with conditions, or disapprove ~~[act on]~~ the plan or plat within 30 days after the date the plan or plat is approved by the planning commission or is ~~[considered]~~ approved by the inaction of the commission. A plan or plat is ~~[considered]~~ approved by the governing body unless it is disapproved within that period and in accordance with Section 212.0091.

(b-1) Notwithstanding Subsection (a) or (b), if a groundwater availability certification is required under Section 212.0101, the 30-day period described by those subsections begins on the date the applicant submits the groundwater availability certification to the municipal authority responsible for approving plats or the governing body of the municipality, as applicable.

(b-2) Notwithstanding Subsection (a) or (b), the parties may extend the 30-day period described by those subsections for a period not to exceed 30 days if:

(1) the applicant requests the extension in writing to the municipal authority responsible for approving plats or the

1 governing body of the municipality, as applicable; and

2 (2) the municipal authority or governing body, as
3 applicable, approves the extension request.

4 (c) If a plan or plat is approved, the municipal authority
5 giving the approval shall endorse the plan or plat with a
6 certificate indicating the approval. The certificate must be signed
7 by:

8 (1) the authority's presiding officer and attested by
9 the authority's secretary; or

10 (2) a majority of the members of the authority.

11 (d) If the municipal authority responsible for approving
12 plats fails to approve, approve with conditions, or disapprove ~~act~~
13 ~~on~~ a plan or plat within the prescribed period, the authority on
14 the applicant's request shall issue a certificate stating the date
15 the plan or plat was filed and that the authority failed to act on
16 the plan or plat within the period. The certificate is effective in
17 place of the endorsement required by Subsection (c).

18 SECTION 5. Subchapter A, Chapter 212, Local Government
19 Code, is amended by adding Sections 212.0091, 212.0093, 212.0095,
20 212.0096, 212.0097, and 212.0099 to read as follows:

21 Sec. 212.0091. APPROVAL PROCEDURE: CONDITIONAL APPROVAL OR
22 DISAPPROVAL REQUIREMENTS. (a) A municipal authority or governing
23 body that conditionally approves or disapproves a plan or plat
24 under this subchapter shall provide the applicant a written
25 statement of the conditions for the conditional approval or reasons
26 for disapproval that clearly articulates each specific condition
27 for the conditional approval or reason for disapproval.

1 (b) Each condition or reason specified in the written
2 statement:

3 (1) must:

4 (A) be directly related to the requirements under
5 this subchapter; and

6 (B) include a citation to the law, including a
7 statute or municipal ordinance, that is the basis for the
8 conditional approval or disapproval, if applicable; and

9 (2) may not be arbitrary.

10 Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
11 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
12 approval or disapproval of a plan or plat under Section 212.0091,
13 the applicant may submit to the municipal authority or governing
14 body that conditionally approved or disapproved the plan or plat a
15 written response that satisfies each condition for the conditional
16 approval or remedies each reason for disapproval provided. The
17 municipal authority or governing body may not establish a deadline
18 for an applicant to submit the response.

19 Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
20 OF RESPONSE. (a) A municipal authority or governing body that
21 receives a response under Section 212.0093 shall determine whether
22 to approve or disapprove the applicant's previously conditionally
23 approved or disapproved plan or plat not later than the 15th day
24 after the date the response was submitted.

25 (b) A municipal authority or governing body that
26 conditionally approves or disapproves a plan or plat following the
27 submission of a response under Section 212.0093:

1 (1) must comply with Section 212.0091; and

2 (2) may disapprove the plan or plat only for a specific
3 condition or reason provided to the applicant under Section
4 212.0091.

5 (c) A municipal authority or governing body that receives a
6 response under Section 212.0093 shall approve a previously
7 conditionally approved or disapproved plan or plat if the response
8 adequately addresses each condition of the conditional approval or
9 each reason for the disapproval.

10 (d) A previously conditionally approved or disapproved plan
11 or plat is approved if:

12 (1) the applicant filed a response that meets the
13 requirements of Subsection (c); and

14 (2) the municipal authority or governing body that
15 received the response does not disapprove the plan or plat on or
16 before the date required by Subsection (a) and in accordance with
17 Section 212.0091.

18 Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL
19 PROCESS. (a) Notwithstanding Sections [212.009](#), 212.0091, 212.0093,
20 and 212.0095, an applicant may elect at any time to seek approval
21 for a plan or plat under an alternative approval process adopted by
22 a municipality if the process allows for a shorter approval period
23 than the approval process described by Sections [212.009](#), 212.0091,
24 212.0093, and 212.0095.

25 (b) An applicant that elects to seek approval under the
26 alternative approval process described by Subsection (a) is not:

27 (1) required to satisfy the requirements of Sections

1 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action
2 challenging a disapproval of a plan or plat under this subchapter;
3 and

4 (2) prejudiced in any manner in bringing the action
5 described by Subdivision (1), including satisfying a requirement to
6 exhaust any and all remedies.

7 Sec. 212.0097. APPROVAL PROCEDURE: WAIVER PROHIBITED. A
8 municipal authority responsible for approving plats or the
9 governing body of a municipality may not request or require an
10 applicant to waive a deadline or other approval procedure under
11 this subchapter.

12 Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal
13 action challenging a disapproval of a plan or plat under this
14 subchapter, the municipality has the burden of proving by clear and
15 convincing evidence that the disapproval meets the requirements of
16 this subchapter or any applicable case law. The court may not use a
17 deferential standard.

18 SECTION 6. Section 212.014, Local Government Code, is
19 amended to read as follows:

20 Sec. 212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT.
21 A replat of a subdivision or part of a subdivision may be recorded
22 and is controlling over the preceding plat without vacation of that
23 plat if the replat:

24 (1) is signed and acknowledged by only the owners of
25 the property being replatted;

26 (2) is approved~~[, after a public hearing on the matter~~
27 ~~at which parties in interest and citizens have an opportunity to be~~

1 ~~heard,~~] by the municipal authority responsible for approving plats;
2 and

3 (3) does not attempt to amend or remove any covenants
4 or restrictions.

5 SECTION 7. Section 212.015, Local Government Code, is
6 amended by adding Subsections (a-1), (f), and (g) and amending
7 Subsection (b) to read as follows:

8 (a-1) If a proposed replat described by Subsection (a)
9 requires a variance or exception, a public hearing must be held by
10 the municipal planning commission or the governing body of the
11 municipality.

12 (b) Notice of the hearing required under Subsection (a-1)
13 [~~Section 212.014~~] shall be given before the 15th day before the date
14 of the hearing by:

15 (1) publication in an official newspaper or a
16 newspaper of general circulation in the county in which the
17 municipality is located; and

18 (2) by written notice, with a copy of Subsection (c)
19 attached, forwarded by the municipal authority responsible for
20 approving plats to the owners of lots that are in the original
21 subdivision and that are within 200 feet of the lots to be
22 replatted, as indicated on the most recently approved municipal tax
23 roll or in the case of a subdivision within the extraterritorial
24 jurisdiction, the most recently approved county tax roll of the
25 property upon which the replat is requested. The written notice may
26 be delivered by depositing the notice, properly addressed with
27 postage prepaid, in a post office or postal depository within the

boundaries of the municipality.

(f) If a proposed replat described by Subsection (a) does not require a variance or exception, the municipality shall, not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll. This subsection does not apply to a proposed replat if the municipal planning commission or the governing body of the municipality holds a public hearing and gives notice of the hearing in the manner provided by Subsection (b).

(g) The notice of a replat approval required by Subsection (f) must include:

(1) the zoning designation of the property after the replat; and

(2) a telephone number and e-mail address an owner of a lot may use to contact the municipality about the replat.

SECTION 8. Subchapter A, Chapter 232, Local Government Code, is amended by adding Section 232.0023 to read as follows:

Sec. 232.0023. APPROVAL PROCEDURE: APPLICABILITY. The plat application approval procedures under this subchapter apply to a county regardless of whether the county has entered into an interlocal agreement, including an interlocal agreement between a municipality and county under Section 242.001(d).

SECTION 9. The heading to Section 232.0025, Local Government Code, is amended to read as follows:

Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS

1 AND PLANS.

2 SECTION 10. Section 232.0025, Local Government Code, is
3 amended by amending Subsections (d), (f), (g), (h), and (i), and
4 adding Subsection (d-1) to read as follows:

5 (d) Except as provided by Subsection (f), the commissioners
6 court or the court's designee shall approve, approve with
7 conditions, or disapprove ~~[take final action on]~~ a plat
8 application~~[, including the resolution of all appeals,]~~ not later
9 than the 30th ~~[60th]~~ day after the date the ~~[a]~~ completed ~~[plat]~~
10 application is received by the commissioners court or the court's
11 designee. An application is approved by the commissioners court or
12 the court's designee unless the application is disapproved within
13 that period and in accordance with Section 232.0026.

14 (d-1) Notwithstanding Subsection (d), if a groundwater
15 availability certification is required under Section 232.0032, the
16 30-day period described by that subsection begins on the date the
17 applicant submits the groundwater availability certification to
18 the commissioners court or the court's designee, as applicable.

19 (f) The 30-day ~~[60-day]~~ period under Subsection (d):

20 (1) may be extended for a ~~[reasonable]~~ period not to
21 exceed 30 days, if:

22 (A) requested and agreed to in writing by the
23 applicant and approved by the commissioners court or the court's
24 designee; or

25 (B) ~~[(2) may be extended 60 additional days if]~~
26 Chapter 2007, Government Code, requires the county to perform a
27 takings impact assessment in connection with the ~~[a]~~ plat

1 application; and

2 (2) ~~[(3)]~~ applies only to a decision wholly within the
3 control of the commissioners court or the court's designee.

4 (g) The commissioners court or the court's designee shall
5 make the determination under Subsection (f)(1) ~~[(f)(2)]~~ of whether
6 the 30-day ~~[60-day]~~ period will be extended not later than the 20th
7 day after the date a completed plat application is received by the
8 commissioners court or the court's designee.

9 (h) The commissioners court or the court's designee may not
10 require ~~[compel]~~ an applicant to waive the time limits or approval
11 procedure contained in this subchapter ~~[section]~~.

12 (i) If the commissioners court or the court's designee fails
13 to approve, approve with conditions, or disapprove a plat
14 application ~~[take final action on the plat]~~ as required by this
15 subchapter ~~[Subsection (d)]~~:

16 (1) the commissioners court shall refund the greater
17 of the unexpended portion of any ~~[plat]~~ application fee or deposit
18 or 50 percent of an ~~[a plat]~~ application fee or deposit that has
19 been paid;

20 (2) the ~~[plat]~~ application is granted by operation of
21 law; and

22 (3) the applicant may apply to a district court in the
23 county where the tract of land is located for a writ of mandamus to
24 compel the commissioners court to issue documents recognizing the
25 plat application's ~~[plat's]~~ approval.

26 SECTION 11. Subchapter A, Chapter [232](#), Local Government
27 Code, is amended by adding Sections 232.0026, 232.0027, 232.0028,

232.00285, and 232.0029 to read as follows:

Sec. 232.0026. APPROVAL PROCEDURE: CONDITIONAL APPROVAL OR DISAPPROVAL REQUIREMENTS. (a) A commissioners court or designee that conditionally approves or disapproves of a plat application under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or the reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.

(b) Each condition or reason specified in the written statement:

(1) must:

(A) be directly related to the requirements of this subchapter; and

(B) include a citation to the law, including a statute or order, that is the basis for the conditional approval or disapproval, if applicable; and

(2) may not be arbitrary.

Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional approval or disapproval of a plat application under Section 232.0026, the applicant may submit to the commissioners court or designee that conditionally approved or disapproved the application a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The commissioners court or designee may not establish a deadline for an applicant to submit the response.

Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL

1 OF RESPONSE. (a) A commissioners court or designee that receives a
2 response under Section 232.0027 shall determine whether to approve
3 or disapprove the applicant's previously conditionally approved or
4 disapproved plat application not later than the 15th day after the
5 date the response was submitted under Section 232.0027.

6 (b) A commissioners court or designee that conditionally
7 approves or disapproves a plat application following the submission
8 of a response under Section 232.0027:

9 (1) must comply with Section 232.0026; and

10 (2) may disapprove the application only for a specific
11 condition or reason provided to the applicant for the original
12 application under Section 232.0026.

13 (c) A commissioners court or designee that receives a
14 response under Section 232.0027 shall approve a previously
15 conditionally approved or disapproved plat application if the
16 applicant's response adequately addresses each condition for the
17 conditional approval or each reason for the disapproval.

18 (d) A previously conditionally approved or disapproved plat
19 application is approved if:

20 (1) the applicant filed a response that meets the
21 requirements of Subsection (c); and

22 (2) the commissioners court or designee that received
23 the response does not disapprove the application on or before the
24 date required by Subsection (a) and in accordance with Section
25 232.0026.

26 Sec. 232.00285. DEVELOPMENT PLAN REVIEW. (a) In this
27 section, "development plan" includes a preliminary plat,

1 preliminary subdivision plan, subdivision construction plan, site
2 plan, general plan, land development application, or site
3 development plan.

4 (b) Unless explicitly authorized by another law of this
5 state, a county may not require a person to submit a development
6 plan during the plat approval process required by this subchapter.
7 If a county is authorized under another law of this state to require
8 approval of a development plan, the county must comply with the
9 approval procedures under this subchapter during the approval
10 process.

11 Sec. 232.0029. JUDICIAL REVIEW OF DISAPPROVAL. In a legal
12 action challenging a disapproval of a plat application under this
13 subchapter, the county has the burden of proving by clear and
14 convincing evidence that the disapproval meets the requirements of
15 this subchapter or any applicable case law. The court may not use a
16 deferential standard.

17 SECTION 12. Section [232.0025\(e\)](#), Local Government Code, is
18 repealed.

19 SECTION 13. The change in law made by this Act applies only
20 to a plat application filed on or after the effective date of this
21 Act. A development or plan application filed before the effective
22 date of this Act is governed by the law in effect immediately before
23 the effective date of this Act, and that law is continued in effect
24 for that purpose.

25 SECTION 14. This Act takes effect September 1, 2019.

H.B. No. 3167

President of the Senate

Speaker of the House

I certify that H.B. No. 3167 was passed by the House on May 2, 2019, by the following vote: Yeas 119, Nays 18, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3167 was passed by the Senate on May 21, 2019, by the following vote: Yeas 27, Nays 3, 1 present, not voting.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to certain requirements to replat certain municipal subdivision plats.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.014, Local Government Code, is amended to read as follows:

Sec. 212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT.

A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(1) is signed and acknowledged by only the owners of the property being replatted;

(2) is approved~~[, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard,~~] by the municipal authority responsible for approving plats; and

(3) does not attempt to amend or remove any covenants or restrictions.

SECTION 2. Section 212.015, Local Government Code, is amended by adding Subsections (a-1), (f), and (g) and amending Subsection (b) to read as follows:

(a-1) If a proposed replat described by Subsection (a) requires a variance or exception, a public hearing must be held by the municipal planning commission or the governing body of the

1 municipality.

2 (b) Notice of the hearing required under Subsection (a-1)
3 [~~Section 212.014~~] shall be given before the 15th day before the date
4 of the hearing by:

5 (1) publication in an official newspaper or a
6 newspaper of general circulation in the county in which the
7 municipality is located; and

8 (2) by written notice, with a copy of Subsection (c)
9 attached, forwarded by the municipal authority responsible for
10 approving plats to the owners of lots that are in the original
11 subdivision and that are within 200 feet of the lots to be
12 replatted, as indicated on the most recently approved municipal tax
13 roll or in the case of a subdivision within the extraterritorial
14 jurisdiction, the most recently approved county tax roll of the
15 property upon which the replat is requested. The written notice may
16 be delivered by depositing the notice, properly addressed with
17 postage prepaid, in a post office or postal depository within the
18 boundaries of the municipality.

19 (f) If a proposed replat described by Subsection (a) does
20 not require a variance or exception, the municipality shall, not
21 later than the 15th day after the date the replat is approved,
22 provide written notice by mail of the approval of the replat to each
23 owner of a lot in the original subdivision that is within 200 feet
24 of the lots to be replatted according to the most recent
25 municipality or county tax roll. This subsection does not apply to
26 a proposed replat if the municipal planning commission or the
27 governing body of the municipality holds a public hearing and gives

1 notice of the hearing in the manner provided by Subsection (b).

2 (g) The notice of a replat approval required by Subsection
3 (f) must include:

4 (1) the zoning designation of the property after the
5 replat; and

6 (2) a telephone number and e-mail address an owner of a
7 lot may use to contact the municipality about the replat.

8 SECTION 3. This Act takes effect September 1, 2019.

H.B. No. 3314

President of the Senate

Speaker of the House

I certify that H.B. No. 3314 was passed by the House on May 10, 2019, by the following vote: Yeas 127, Nays 14, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3314 was passed by the Senate on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor