

ORDINANCE NO. 0035
Regulations for Subdivisions
THE TOWN OF HORIZON CITY, TEXAS
Including Amendments 1 through 16

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ORDINANCE NO. 0035

AN ORDINANCE ESTABLISHING REGULATIONS, STANDARDS, REQUIREMENTS AND PROCEDURES FOR THE SUBDIVISION OF LAND IN THE TOWN OF HORIZON CITY, EL PASO COUNTY, TEXAS, AND ITS EXTRATERRITORIAL PLANNING AND PLATTING JURISDICTION, PROVIDING FOR AMENDMENTS THERETO, AND PROVIDING FOR A PENALTY FOR A VIOLATION THEREOF.

SECTION 1. AUTHORITY, PURPOSES AND OBJECTIVES

1.1 ENACTMENT AND EFFECTIVE DATE

1.1.1 ENACTMENT AND EFFECTIVE DATE

The following standards, rules and regulations shall be known as the Subdivision Regulations of The Town of Horizon City, Texas. These Regulations are hereby Adopted under the authority of Chapter 232 of the Local Government Code, Chapter 16 of the Texas Water Code and the Texas County Road and Bridge Act. Theses Regulations become effective on the final adoption of this ordinance. All subdivisions located outside the corporate limits of this incorporated municipality but within the jurisdiction of the Town's E.T.J. shall conform to the requirements of these Regulations. Subdivisions which have received formal approval by the Town Council prior to the effective date of these Regulations shall not be subject to these Regulations, but shall be held to any previously imposed requirements.

1.2 PURPOSE AND OBJECTIVES

1.2.1 These Regulations shall hereafter be know, cited, and refereed to as the Subdivision Regulations of the Town of Horizon City, Texas. These Regulations are hereby adopted for, but not limited to, the following purposes:

1.2.1.1 To protect, promote and provide for the public health, safety, and general welfare of the Town of Horizon City.

1.2.1.2 To encourage the orderly future growth and beneficial development of all parts of the Town.

1.2.1.3 To protect and conserve the value of land throughout the town.

1.2.1.4 To provide the most beneficial relationship between the uses of land and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and highways; to provide for the proper location and width of streets and for the adequacy of drainage facilities.

1.2.1.5 To establish reasonable standards of design and procedures for subdivisions and resubdivisions, in order to further the orderly layout and use of the land and to insure proper legal descriptions and monumenting of subdivided land.

- 1.2.1.6 To encourage the installation of public facilities as herein defined with sufficient capacity to serve proposed subdivisions.
- 1.2.1.7 To safeguard the water table, and to encourage the wise use and management of natural resources.
- 1.2.1.8 To encourage the proper development, design and construction of road systems within the Town.
- 1.2.1.9 To ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of the Town and to establish minimum standards for water and wastewater facilities.

1.3 DEFINITIONS*

- 1.3.1 ACCESS, access or access way is a public or private street by which pedestrians and vehicles shall have lawful and usable ingress and egress to a property line.
- 1.3.2 ACCESS STREET, any street within a subdivision or along the boundaries of a subdivision which would serve any properties outside the plat boundaries or provide a connection directly with a collector street.
- 1.3.3 AMENDING PLAT, a plat, previously approved by the Town of Horizon City, Texas, and duly recorded, which is resubmitted to the town of Horizon City, Texas, for reapproval and recording which contains dimensional or notational corrections of erroneous information contained on the originally approved and recorded plat. An amending plat is not to be considered as a replat or resubdivision and may not contain any changes or addition to the physical characteristics of the original subdivision, but is intended only to correct minor errors or miscalculations.
- 1.3.4 ARTERIAL STREET, a principal traffic artery, carrying higher volumes of traffic, more or less continuously, which is intended to connect remote parts of the area adjacent thereto and to act as a principal connecting street with State Highways.
- 1.3.5 CLEARING AND GRUBBING, the removal and disposal of trees, stumps, brush, roots, vegetation, logs, rubbish and other objectionable matter from a designated right-of-way.
- 1.3.6 TOWN COUNCIL, the Town Council for the Town of Horizon City, Texas.
- 1.3.7 COUNTY, El Paso County, Texas.
- 1.3.8 TOWN ENGINEER, the Engineer for the Town of Horizon City or his designated agent.

* Sub-Sections 1.3.12 through 1.3.36 were renumbered for better sequence. Definitions were not added or deleted when last adopted.

- 1.3.9** DESIGNATED 100-YEAR FLOOD PLAIN, based on El Paso County, Texas, regulations for Flood Plain Management; the area adjacent to a stream or water course which, on the average, has one percent chance of being inundated from flood waters in any given year.
- 1.3.10** DRAINAGE CONTROL FACILITY, any facility installed or constructed in conjunction with a drainage control plan for the purpose of controlling the rate and/or storm water runoff.
- 1.3.11** DRAINAGE CONTROL PLAN, A plan for collecting, controlling, transporting and imposing of storm water falling upon, entering, flowing within or exiting the subject property.
- 1.3.12** LOCAL STREET, a street or a road which is intended primarily to serve traffic within a neighborhood or limited residential district, and which is not necessarily continuous through several residential districts; is to provide access to adjacent land over short distances.
- 1.3.13** LOT, an undivided tract or parcel of land contained within a block, designated on a subdivision plat by alpha-numeric identification, and having frontage and/or access to an existing or proposed private or public street.
- 1.3.14** MONUMENTING, the process of establishing permanent markers to locate a boundary of a subdivision and/or establishing right-of-way limits or centerlines.
- 1.3.15** NATURAL DRAIN, that course, formed by nature, which water naturally and normally follows in drainage from higher to lower lands.
- 1.3.16** NATURAL LOCATION OF DRAINAGE SYSTEMS, the location of channels, swales and other conveyance systems, not of human origin, existing as of the effective date of this order.
- 1.3.17** NEIGHBORHOOD COLLECTOR STREET, a street or road collecting traffic from other streets and collectors and serving as the most direct route to an arterial, State highway or a neighborhood center.
- 1.3.18** NON-PUBLIC WATER SYSTEM, any water system supplying water for domestic purposes which is not a public water system.
- 1.3.19** PAN HANDLE LOT, a lot because of inherent limitation, lacking frontage except for access provided by way of a narrow projection of the lot to the street.
- 1.3.20** PLATTED, recorded with the Town in an official plat record.
- 1.3.21** PRELIMINARY PLAT, a map or drawing of a proposed subdivision illustrating the features of the development for review and preliminary approval by the Town of Horizon City, Texas, but not suitable for recording in the County records.

- 1.3.22** PRIVATE STREET, a vehicular access under private ownership and maintenance, providing access to residential dwelling units or any part located more than three hundred feet (300) from an approved public street right-of-way. A private street shall also include any vehicular access to three (3) or more residential units. Parking lots and private driveways within shopping centers, institutions, commercial areas and industrial developments will not be considered as private streets.
- 1.3.23** PROPOSED GRADE, the final elevation as proposed by the Town Engineer or as shown on improvement plans.
- 1.3.24** PUBLIC STREET, a public right-of-way, however designated, dedicated or acquired, which provides vehicular access to adjacent properties.
- 1.3.25** PUBLIC WATER SYSTEM, a system for the provision to the public of piped water for human consumption, which includes all uses described under the definition for drinking water. Such a system must have a potential for at least fifteen (15) service connections or serve at least twenty five (25) individuals at least sixty (60) days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty five (25) individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are fifteen (15) or greater or if the total number of individuals served by the combined systems total twenty five (25) or more at least sixty (60) days out of the year.
- 1.3.26** PURCHASER, shall include purchasers under executory contracts for conveyance of real property.
- 1.3.27** RESIDENTIAL COLLECTOR STREET, a street or road collecting traffic from local streets of a residential nature and leading to streets of a higher type classification.
- 1.3.28** SANITARIAN, a person registered as a Professional Sanitarian by the Texas Department of Health under the authority of Vernon's Ann. Tex. Civ. Stat. Article 4477-3.
- 1.3.29** STREET DEDICATION PLAT, a map or drawing illustrating only the location of a public street within a specific tract of land.
- 1.3.30** SEWERAGE FACILITIES, the devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these regulations.
- 1.3.31** STUB-END STREET, a public street not terminated by a permanent circular turnaround, ending adjacent to undeveloped property or acreage and intended

to be extended at such time as the adjacent undeveloped property or acreage is subdivided or developed.

1.3.32 SUBDIVIDER, any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.

1.3.33 SUBDIVISION, a division of any tract of land into two (2) or more parts for the purpose of laying out any subdivision of any tract of land or any addition or laying out lots, suburban lots, building lots, or streets, alleys or parts or other positions intended for public use or the use of the purchasers or owners of lots fronting thereon or adjacent thereto. A subdivision includes resubdivision (replat) of land which was previously divided.

1.3.34 SURVEYOR, a state land surveyor or a registered public surveyor, as licensed in the State of Texas, to practice the profession of surveying.

1.3.35 UNRECORDED SUBDIVISION, a subdivision of land or description of land for resale that varies from the previous sale description and which subdivision results in the creation of lots or tracts requiring current or future public access, but for which a plan or plat has not been authorized for recording by the Horizon City Town Council or has not been recorded by the Town Clerk.

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

1.4 AMENDMENTS

To further provide for the purposes of these Regulations, the Town Council for the Town of Horizon City, Texas, may from time to time amend the provisions imposed by these Subdivision Regulations. A public hearing on all proposed amendments shall be held by the Town of Horizon City in the manner prescribed by law.

1.5 REPEALER

Any prior Subdivision Regulations, adopted by the Town of Horizon City, are hereby repealed to the extent that they conflict with these regulations.

1.6 SEVERABILITY

If any part or provision of these Regulations, or application thereof to any person or circumstances, is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these Regulations or application thereof to other persons or circumstances. The town of Horizon City hereby declares that it would have enacted the remainder of these Regulations without any such part, provision or application.

SECTION 2. MINIMUM STANDARDS

2.1 SCOPE OF STANDARDS

2.1.1 The establishment of residential developments with tracts of one acre or less where the water supply and sewer services do not meet the minimum standards of these Regulations is prohibited. Subdivisions with tracts of one acre or less are presumed to be residential developments unless the land is restricted to nonresidential uses on the final plat and on all deeds and contracts for deeds. All plats with a tract or tracts of one acre or less shall comply with the minimum standards of these Regulations, including Section 2.

2.1.2 The establishment of residential developments with tracts of less than ten (10) acres where the water supply does not meet the minimum standards if these Regulations is prohibited. Subdivision with tracts of less than ten acres are presumed to be residential developments unless the land is restricted to nonresidential uses on the final plat and on all deeds and contracts for deeds. All plats with a tract or tracts of less than ten acres shall comply with the minimum standards of these Regulations, including Section 2.

2.2 WATER FACILITIES DEVELOPMENT*

2.2.1 PUBLIC WATER SYSTEMS

2.2.1.1 Where drinking water is to be supplied to a subdivision from a central system not connected to an established and regulated Municipal Utility District, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 25 TAC 337.201-337.212, "Rules and Regulations for Public Water System" and 25 TAC 337.1-337.18, "Drinking Water Quality and Reporting Requirements for Public Water Supply Systems."

2.2.1.2 Subdividers who propose to supply drinking water by connecting to an existing central system must provide a written agreement with the public water surveyor. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed subdivision.

2.2.2 NON-PUBLIC WATER SYSTEMS

Where individual wells are proposed for the supply of drinking water to residential establishments, the following conditions and requirements shall be observed.

2.2.2.1 A test well or wells located so as to be representative of the quality of water generally available from the supplying aquifer shall be drilled by the sub divider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The results such analyses shall be made available to prospective property owners. The

* Section 2.2 was modified on June 10, 1997, by Amendment No.005

results of the analysis shall also be made available to the El Paso City-County Health District and the Texas Department of Health to assist the prospective purchaser in interpreting the analysis and verifying conditions of this section.

- 2.2.2.2 The water quality of individual wells must, after treatment, meet the standards of quality for community water systems established by 25 TAC Sections 337.3, 337.4, 337.10, and 337.14. No lot may be occupied until an approved source of potable water is available.

2.2.3 TRANSPORTATION OF POTABLE WATER

The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these Regulations due to the negligence of the sub divider does not constitute an emergency.

2.3 WASTEWATER DISPOSAL*

2.3.1 ORGANIZED SEWERAGE FACILITIES

- 2.3.1.1 Sub dividers who propose the development of an organized wastewater collection and treatment system other than an established and regulated Municipal Utility District must obtain a permit to dispose of wastes from the Texas Natural Resource Conservation Commission (to be referred to as TNRCC) in accordance with 31 TAC Chapter 305 "Consolidated Permits" and obtain approval of engineering planning materials for such systems under 31 TAC Chapter 317 "Design Criteria for Sewerage Systems" from the TNRCC.

- 2.3.1.2 Subdivider who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement with the permittee. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed wastewater collection lines must be approved by the TNRCC.

2.3.2 ON-SITE SEWERAGE FACILITIES

- 2.3.2.1 On-site sewerage facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of one thousand (1,000) gallons per day up to five thousand (5,000) gallons per day must be designed by a registered professional engineer or registered professional sanitarian.

- 2.3.2.2 Proposals for on-site sewerage facilities for the on-site disposal of sewage in the amount of five thousand (5,000) gallons per day or greater must be presented to the Texas Water Commission for determination of the necessity for a wastewater permit from that agency. Each such disposal facility must be designed by a registered professional engineer.

* Section 2.3 was modified on June 10, 1997, by Amendment No. 005

- 2.3.2.3 On-site sewerage facilities not required to obtain a wastewater permit from the Texas Water Commission must apply for and receive a permit from the Texas Department of Health or its authorized agent as required by the procedures established in 25 TAC 301.101 through 301.109 and the El Paso County Sewage Facility Order.
- 2.3.2.4 On-site Sewage Disposal near Lakes. On-site sewerage facilities proposed near lakes must be licensed and installed in strict accordance with requirements established by the Texas Water Commission in their rules 31 TAC Chapter 285.
- 2.3.2.5 On-site Wastewater Disposal in Recharge Zones. On-site sewerage facilities proposed within aquifer recharge zones must be licensed and installed in strict accordance with requirements established by the Texas Water Commission in 31 TAC Chapter 313 and applicable Texas Department of Health Regulations.
- 2.3.2.6 Review, Inspection and Permitting of On-Site Sewerage Facilities. The Texas Department of Health or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with Chapter 366 of the Texas Health and Safety Code and rules 25 TAC Sections 301.11 through 301.17 and any additional applicable sections, "Construction Standard for On-site Sewerage Facilities". In addition to the unsatisfactory on-site disposal systems listed in 25 TAC 301.16, pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

2.3.3 GREYWATER SYSTEMS FOR REUSE OF TREATED WASTEWATER

- 2.3.3.1 Organized or Municipal Sewerage Systems. Any proposal for sewerage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 31 TAC, Chapter 310. 1-310.17, "Use of Reclaimed Water", promulgated and administered by the Texas Water Commission.
- 2.3.3.2 On-site Sewerage Facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 25 TAC, Chapter 301, Section 301.17, contained within the "Construction Standards for On-site Sewerage Facilities" promulgated by the Texas Department of Health.

2.4 SLUDGE DISPOSAL

The disposal of sludge from water treatment and wastewater treatment facilities shall meet the criteria of 25 TAC, Chapter 325, Subchapters N and X, and 31 TAC, Chapter 317.

2.5 SETBACKS*

Setbacks from roads, property lines, right-of-ways, etc shall be a minimum of twenty (20) feet on front and back property lines and five (5) feet on side property lines, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies.

2.6 NUMBER OF DWELLINGS PER LOTS

No more than one single family detached dwelling shall be located on each tract. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Notice of this restriction must be given by the seller to purchasers prior to execution of any binding agreement for sale or conveyance of any real estate. Proposals which include multi-family residential or commercial units shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type design.

2.7 FINANCIAL GUARANTEES FOR WATER AND WASTEWATER FACILITIES

2.7.1 Applicability. If an adequate public or nonpublic water system or wastewater facility is not available from another entity, or is not constructed by the subdivider, to serve lots intended for residential purposes of one acre or less at the time final plat approval is sought, then the Town Council shall require the owner of the subdivided tract to execute an agreement with the Town secured by a bond or other alternative financial guarantees such as a cash deposit or a letter of credit pursuant to these Regulations. Lots of one acre or less are presumed to be residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.

2.7.2 Applicability. If an adequate public or nonpublic water system is not available from another entity, or is not constructed by the subdivider, to serve lots intended for residential purposes of ten acres or less at the time final plat approval is sought, then the Town Council shall require the owner of the subdivided tract to execute an agreement with the Town secured by a bond or other alternative financial guarantees such as cash deposit or a letter of credit pursuant to these Regulations. Lots of ten acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.

2.8 STIPULATIONS FOR DEEDED PARKLAND[†]

2.8.1 The primary purpose of the parkland dedication ordinance is to insure that any need for parkland which arises from new development is satisfied by the developers as part of the new development, so that those that generate the need

* Section 2.5 was revised by Amendment 005 on June 10, 1997

[†] Section 2.8 was added without a specific section number on October 14, 1998, by Amendment No. 007

contribute their proportionate share to alleviating the need. Accordingly, when new development occurs, a reasonable contribution is to be made for space and facilities for those who live in the new development to engage in active or passive recreation activities within or near the new development.

A residential subdivision shall include any plat submitted on property where the zoning allows for single-family or multi-family development, whether or not the land is developed for residential purposes.

The sub divider shall indicate the proposed parkland improvements within the subdivision improvement plans.

Where a residential subdivision is filed, the amount of parkland and/or fees required to be deeded to the City shall be as follows:

Single-Family and Mobile Homes

- 1-149 units-----\$400.00 per unit;
- 150-224 units-----1 acre + \$400.00 per unit over 150 units;
- 225-299 units-----1 ½ acres + \$400.00 per unit over 225 units;
- 300 units and up-----2 acres + \$400.00 per unit over 300 units.

Multi-Family

- 1-249 units-----\$240.00 per unit;
- 250-449 units-----1 acre + \$240.00 per unit over 250 units.

Subdivisions by the same developer on adjoining properties within five (5) years will be subject to the greater amount up to and including land. (E.G. subdivision #1 of 70 units, one year later subdivision #2 of 85 units-total in less than five years is 155 units, therefore requirement for 1 acre plus \$2,000.00 for the five units over 150 units).

2.9 STANDARDS FOR DEEDED PARKLAND*

Parkland deeded to the City shall be improved as required by this subsection.

- 2.9.1** No flood-plain or ponding areas shall be deeded for parkland. Only flatland with acceptable drainage is acceptable.
- 2.9.2** A minimum of one hundred feet (100') of frontage contiguous with a public access way, except where approved by Planning and Zoning Commission.
- 2.9.3** Construction of the required parkland improvements shall be completely installed and constructed by the sub divider within a time period specified by the Planning and Zoning Commission.
- 2.9.4** The parkland dedication shall not include land required and utilized for utility easements.

* Section 2.9 was added without a specific section number on October 14, 1998, by Amendment No. 007

- 2.9.5 Paving frontage, curbing, gutter and utility extensions for all street frontage abutting the outside perimeter of the parkland.
- 2.9.6 An accessible route installed adjacent to the curb on all street frontage abutting the outside perimeter of the parkland of a minimum width and construction to provide accessibility to individuals with disabilities for A.D.A. compliance.
- 2.9.7 All electrical lines to be placed underground.
- 2.9.8 Grading, automatic irrigation and turf within the parkland boundaries, the design and installation as approved by the Planning and Zoning Commission.
- 2.9.9 Payment of fees shall be due prior to the final plat approval.

2.10 MISCELLANEOUS ISSUES*

- 2.10.1 Land annexed by Horizon City, Texas, shall include as a part of the Service Plan, parkland requirements and identification.
- 2.10.2 Fees in lieu of land, where land is required, or land in lieu of fees, where fees are required, is at the sole discretion of the City Council. (E.G. If subdivision is 140 units, requirement if \$56,000.00, City Council may allow developer to give a piece of land, approved by Council which has a \$56,000.00 value).
- 2.10.3 In areas being developed within Horizon City, Texas, and its E.T.J., the City shall elect whether or not parkland or fees should be dedicated or waived in every instance. NOTE: Prior to preliminary plat application on a proposed development, the developer should request a decision by Council on whether the fees/parkland will be dedicated or waived.
- 2.10.4 Any fees deposited with the City for the purposes of parkland development will be dedicated for this use.

SECTION 3. SUBDIVISION ADMINISTRATIVE PROCESS

3.1 JURISDICTION

- 3.1.1 Any person or persons who divides any tract of land located inside the limits of the Town of Horizon City, in El Paso County into two or more parts for the purpose of laying out a subdivision of the tract including an addition, or to lay out suburban lots or building lots and to lay out streets, alleys, parks or other portions of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys square or to any such tract of land shall have a plat of the subdivision prepared and comply with the requirements of these Regulations.

* Section 2.10 was added without a specific section number on October 14, 1998, by Amendment No. 007

- 3.1.2** No land shall be subdivided inside the boundaries of this incorporated municipality in El Paso County, Texas, until the sub divider.
- 3.1.2.1** has submitted a preliminary plat of the parcel to the Horizon City Town Council, and
- 3.1.2.2** has obtained approval of the preliminary plat from Town Engineer and
- 3.1.2.3** has obtained approval of the final plat from the Town Engineer and the Town Council and
- 3.1.2.4** has filed with the Town Clerk a legally approved plat for recordation in the Deed Records of El Paso County, Texas.
- 3.1.2.5** A division of a tract referenced in these Regulations is defined as including description of less than a whole parcel, or a division of a lot, tract, or parcel of land into two or more parts by any method used to convey property including deed of conveyance, contract, lease-purchase agreement or rental agreement.

3.2 **SUBDIVISION REVIEW FEES***

Fees will be charged for reviewing subdivision plans and plat. This fee is to recover costs for plan and plat review, on-site inspections and preparation of documents and recommendations to the Town Council. These fees are not to be considered fees for the approval of a subdivision plat.

The application for subdivision approval will include a completed application, two sets of plans and specifications a copy of the draft Covenants Conditions and Restrictions along with a deposit check made payable to the Town of Horizon City in the amount of \$500.00. All information should be delivered to the Horizon City Town Clerk at Horizon Town Hall, 14999 Darrington Rd., Horizon City, TX. 79927. The deposit will be used to cover the engineering evaluation of the plans and specifications and recommendation to The Town of Horizon Planning and Zoning Board and the Horizon City Town Council.

The Town of Horizon City reserves the right to request additional money from the Applicant should the initial deposit not be sufficient to cover anticipated engineering review expenses. If additional money is not produced when requested, then all review work will be stopped and the application will become null and void upon ten (10) days written notice to the Applicant.

The \$500.00 deposit is a minimum non-refundable deposit that applies to all engineering plat review for residential, multi-family, commercial and industrial development. Estimates for engineering plat review will be provided upon receipt of a written request by the applicant.

* Section 3.2 expanded to include subsection as adopted on July 9, 1996, February 12, 1997, July 8, 1997, and December 9, 1998 by Amendments 001, 002, 004, and 008

3.2.1 SUBDIVISION PROCESSING (ADMINISTRATIVE & GENERAL EXPENSES)

In order to cover the professional, administrative, and general expenses related to processing subdivision requests, the Developer shall remit the following fees to the Town prior to any review or approval of subdivision documents:

| | |
|---------------------------------------------------|--------------|
| Sketch Plat Review | \$ 50 |
| Preliminary Plat Review | \$100 |
| Final Plat Review..... | \$150 |
| Variance Request | \$150 |
| Engineering Report Review | \$150 |
| Subdivision Improvement Plans Review | \$150 |
| Vacation of Plat Review | \$100 |
| Replat Review | \$100 |

3.2.2 SUBDIVISION CONSTRUCTION INSPECTION/TESTING FEES

In order to cover the professional, administrative, and general expenses incurred as a result of reviewing and inspecting subdivision construction projects, the Developer shall remit the following fees to the Town at the times noted and as a condition of approval and acceptance of the subdivision:

3.2.2.1 Grading Permit (due at time of permit issuance):

| | |
|------------------|----------|
| 0-10 acres..... | \$100.00 |
| 10-25 acres..... | \$200.00 |
| 25-50 acres..... | \$300.00 |
| 50+ acres..... | \$400.00 |

3.2.2.2 Construction Inspection (due prior to construction):

| | |
|------------------|------------|
| 0-10 acres..... | \$400.00 |
| 10-25 acres..... | \$600.00 |
| 25-50 acres..... | \$800.00 |
| 50+ acres..... | \$1,000.00 |

3.2.2.2 Engineering Review (due monthly as incurred)

The Town contracts with a registered professional engineer to provide all subdivision-related engineering review services. The developer shall reimburse

the Town for the actual cost of these services based on copies of invoices provided by the Town Engineer. The developer shall remit payment to the Town within thirty (30) days of invoice.

3.2.2.3 Construction Testing (due monthly as incurred or as noted):

Testing Laboratory Services (retained by Town).....actual charges

The Developer has the option of contracting the services of a certified testing laboratory, approved by the Town, to conduct all required testing. If this option is selected, the Developer shall be responsible for payment of all laboratory fees; promptly provide copies of all test results to the Town Engineer; and pay a basic testing fee of \$100.00 to the Town prior to commencing construction.

3.2.2.4 Specialized Engineering Review (due monthly as incurred):

In the event that the inspection and/or testing requirements involve specialized engineering review, the Town will retain the services of a Registered Professional Engineer to perform these services. The additional cost of the consulting engineering review shall be reimbursed to the Town by the Developer. If possible, estimates of the additional costs will be provided to the Developer prior to any special inspections and/or review.

Consulting Engineer (retained by Town).....actual charges

3.2.3 CERTIFICATE OF COMPLIANCE FEES*

The fee for Certificates of Compliance is hereby set at \$25.00 per request.

3.2.4 METHOD OF PAYMENT

All fees are non-refundable and payable to the Town of Horizon City, Texas.

3.3 RESERVED FOR EXPANSION

3.4 INTERPRETATION AND CONFLICT

In their interpretation and application, the provisions of these Regulations shall be the minimum requirements for the promotion of the public health, safety and general welfare.

3.4.1 CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS

3.4.1.1 PUBLIC PROVISIONS. These Regulations are not intended to interfere with abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these Regulations imposes restrictions different from those imposed by any other ordinance, rule or

* Section 3.2.4 was modified on December 9, 1998 by Amendment 008

regulations or any other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

3.4.1.2 PRIVATE PROVISIONS. These Regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction provided that where the provisions of these Regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these Regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of the Horizon City Town Council in approving a subdivision or in enforcing these Regulations, and such private provisions are not inconsistent with these Regulations or determinations there under, then such private provisions shall be operative and supplement to these Regulations and determinations made there under.

3.5 SAVING PROVISION

These Regulations shall not be construed as abating any action currently pending before the Town Council, or as affecting the liability of any firm, person, or corporation, or as waiving any right of the State or Town under any section or provision existing at the time of adoption of these Regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the Town, except as shall be expressly provided for in these Regulations.

SECTION 4. SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS

4.1 CLASSIFICATION OF SUBDIVISIONS

Whenever any subdivision of land is proposed, and before any contract is made for the sale of any part thereof, the subdivider shall apply for and secure approval of such proposed subdivision in accordance with the following procedure.

4.2 PRELIMINARY PLAT REQUIREMENTS*

4.2.1 PRELIMINARY PLAT STANDARDS IN ETJ

Standards for preparation of preliminary plats submitted to the Town Engineer for proposed subdivisions located within Horizon City's extraterritorial jurisdiction (ETJ) of the Town of five (5) miles or other cities ETJ's shall be to standards proposed in that municipality's subdivision ordinance. Where no conflicts exist with these standards, the plat standards proposed below will be required as a minimum.

4.2.2 PRELIMINARY PLAT STANDARDS†

* Section 4.2 was modified on June 10, 1997, by Amendment No. 005

† Sub-section 4.2.2.1 was modified on November 11, 2003, by Amendment No. 010

Requirements for preparation of preliminary plats for proposed subdivision within the Town Municipal limits or within the five (5) mile E.T.J. of the Town shall be drawn to a scale of one hundred feet to one inch (100'=1"); except that a scale of two hundred feet to one inch (200'=1") may be used if the preliminary is over one hundred acres by express permission of the Town Engineer. The maximum sheet size accepted shall be 24" x 36" (Note: the maximum final plat size for recording is 24" x 36" and the minimum final plat size for recording shall be 18"x 24"). The following are additional requirements for preliminary plats located in the ETJ:

- 4.2.2.1** A minimum of five (5) copies of the preliminary plat shall be submitted as follows: Two (2) copies with completed application to be delivered to the Town of Horizon City and two (2) copies shall be submitted to the Town Engineer and one (1) copy to be submitted to the Planning and Development for the County of El Paso
- 4.2.2.2** The date, scale and north point, a key plan showing the location of the tract, the name and address of the owner, and the name of the engineer and/or surveyor;
- 4.2.2.3** The proposed name of the subdivision or development will not be duplicate of any subdivision or development of record or in process within El Paso County;
- 4.2.2.4** The legal description of the property proposed to be subdivided including name of the County, survey and together with reference to the nearest section corner or an original corner of the original survey of which it is a part and/or survey tie at the nearest right-of-way or existing monument. The total acreage of the subdivision shall be placed at the bottom of the legal description in a proper manner;
- 4.2.2.5** Location of existing boundary lines and width and location of platted streets, alleys within or adjacent to the property, including location of water courses, ravines, existing bridges, culverts, present structures and other features pertinent to subdivision, and location of any existing utilities with the size of sewer or water mains if they exist within the area. The total acreage of each lot is to be indicated below the lot number;
- 4.2.2.6** Current topographic information approximately equivalent to two (2) feet contours on land less than 5% gradient and five (5) feet contours on land more than 5% gradient. Local U.S.G.S. datum shall be referenced. Topography shall be based on aerial photogrammetry, on field surveys conducted by the surveyor or engineer or on reliable existing topography. If the latter, the date source shall be noted on the plan. Such topographical information, location and dimensions shall be sufficient accuracy as to permit the planning of drainage facilities, streets and other proposed improvements. Developed storm water shall be addressed in the drainage study;
- 4.2.2.7** Include the names, locations, width and dimensions of proposed streets, roads, lots, alleys and of drainage and public utility easements, parks or other public spaces, sites for all public uses and other features, and their relation to streets in adjacent subdivisions, including lot lines on the plat. Also, show the location and identification of all tracts not designed as lots within the boundaries of the plat. A location map of a smaller scale as

requested by the Town Engineer shall be placed on the preliminary plat showing the outline and identification of the adjacent properties, location of subdivisions and how the streets or highways in the subdivision offered for the record may connect with those in the nearest subdivision or other roads in the area. The location map should be oriented with the drawing and in the same direction as the detail subdivision drawing;

4.2.2.8 The location of the boundaries of the Flood Hazard Area for the regulatory (100 Year) flood for all waterways in accordance with the requirements of El Paso County Flood Plain Regulations (See El Paso County Manual "Guidelines and Procedures for Development Permits") and the drainage requirements of this specification. Clarification of these boundaries (if any) by a professional engineer or registered surveyor is required;

4.2.2.9 Certification from utility and/or service agencies indicating their satisfaction with the location and extent of utility easements. Said certification will also state whether services will be available sufficient to serve the subdivision. If certifications are not submitted with the preliminary plats showing all proposed easements, the Town may forward plats and a comment sheet to these agencies requesting utility service information and easement location comments and will charge a fee to cover the cost;

4.2.2.10 A general summary description of any deed restrictions proposed indicating the lots so restricted and all pertinent documents pertaining to the creation of a property owners' association responsible for maintenance obligations, if such private ownership is to be established;

4.2.2.11 A list of all street names.

4.2.3 REVIEW OF PLATS

The Town Engineer shall review the preliminary plat and make written comments concerning the suitability of the plat for compliance to these Subdivisions Regulations within fourteen (14) days of receipt of plats. In the event the preliminary plat for the proposed subdivision is in a city's extra-territorial jurisdiction, 2 copies shall be provided to the Town Engineer at least twenty-one (21) days prior to the first presentation for consideration of the plat by the Planning & Zoning Commission of the Town. The written comments of the Town Engineer will be submitted through the Town approval process. After recommendation of the Planning and Zoning Commission, the preliminary plat will be presented by the Building Official at the Town Council next regularly scheduled meeting. Written comments will be mailed directly to the person submitting the plat with a copy to the Building Official.

4.2.4 EXPIRATION OF PRELIMINARY PLAT APPROVAL*

Failure of the subdivider to submit a final plat for review and approval within six (6) months of the date of approval of the preliminary plat by the Town Council will nullify the approval of the preliminary subdivision plat and obligate the subdivider to reapply for preliminary plat approval, should the

* Sub-section 4.2.4 was modified on July 20, 2004, by Amendment No. 012

subdivider wish to pursue the subdivision. No vested rights will survive if the preliminary plat approval is nullified by a failure of the subdivider to submit a final plat map within the timeframe specified in this section, nor shall the subdivider be entitled to a refund of any application fees or review fees that may have been paid.

4.3 FINAL PLAT REQUIREMENTS[±]

4.3.1 FINAL PLAT STANDARDS INSIDE ETJ

After the preliminary plat has been approved four (4) copies of the final plat shall be legibly drawn with waterproof ink on materials of a permanent nature in general use by the engineering profession. The plat shall be drawn on sheets no larger than 24"x 36" and no smaller than 18" x 24" (multiple sheets may be necessary), and shall be submitted to the Town Engineer for final review prior to Town Council approval. Two (2) copies of the final plat will be delivered to the Town of Horizon City and two (2) copies to the Town Engineer.

4.3.2 INFORMATION REQUIRED ON FINAL PLAT

4.3.2.1 The date, subdivision title, scale, location map and north point.

4.3.2.2 The name of the subdivision and adjoining subdivisions, the name of the streets (to conform wherever possible to existing street names whenever extending streets, but not to create new streets with duplicated names), numbers on each lots and blocks, and street addresses (provided by the Town Engineer).

4.3.2.3 The lines and names of all proposed streets or other ways or such easements, including a statement of the purpose for which such easements are dedicated. The lines and names of other open spaces to be dedicated for public use or granted for use by the inhabitants of the subdivision. Show all natural drains and water courses as they exist, or as adjusted, with an easement of width as required hereafter in these specifications. All easements of record shall be shown, or if incapable of being definitely located on the ground, a statement of such easements must appear on the plat.

4.3.2.4 Sufficient data to determine readily and reproduce on the ground the location, true bearing and length of every street line, lot line, block line, whether curved or straight and include the true north point. This shall include the complete curve data for property lines, centerlines of the right-of-ways and returns.

4.3.2.5 The location of all permanent monuments and control points. The monuments and pins shall be delineated in a standard manner with:

4.3.2.5.1 found or set monuments shown as a solid circle;

4.3.2.5.2 to-be-set monuments as an open circle with a solid small circle in the center;

[±] Section 4.3 was modified on June 10, 1997, by Amendment No. 005

4.3.2.5.3 to-be-set pins as an open circle to indicate return radii, change of bearing and block corners;

4.3.2.5.4 square footage of each lot to be placed under lot number.

4.3.2.6 Dimensions shall be shown in feet and hundredths of a foot, and angles in degrees, minutes and seconds. All lines and ties to primary control points and existing monuments, survey corners, etc., shall be shown.

4.3.2.7 The location of the boundaries of the Flood Zone Area for the regulatory flood (100-Year Flood) for all waterways in accordance with the requirements of the El Paso County Flood Plain Regulations and drainage requirements of these Regulations. These boundaries shall be established by a professional engineer or registered surveyor of the State of Texas, whose seal and signature shall appear on the plan. (Should the subdivider elect to contain the Flood Hazard Area within drainage easement, the actual boundaries of the Flood Hazard Area, need not be shown provided that the Engineer certifies that the actual Flood Hazard Area boundaries are contained within the drainage easement).

4.3.2.8 If finished floor elevations for buildings in the lots, a portion or all of which lots lie in Flood Hazard Areas, are noted on the plat within the boundaries of the lot or tract to which they apply, then minimum development permit fees are applicable for buildings constructed on these lots. Elevation verification will still be required. The floor elevations shall be determined by the engineer or surveyor and shall comply with the requirements of the El Paso County Flood Plain Regulations and the drainage requirements of these Regulations.

4.3.2.9 One or more benchmarks shall be monumented in subdivisions which contain or bound flood hazard areas. The distance between benchmarks in a subdivision shall not exceed 2500 feet.

4.4 FINAL ENGINEERING REPORT*

For those proposed subdivisions not connected to an established and regulated Municipal Utility District, the final plat shall be accompanied by an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the Town shall be provided for those unconstructed water supply and distribution facilities and wastewater collection and treatment facilities which are necessary to serve the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. The report shall also contain an abstract, a problem statement, analyses and evaluation of data, conclusions and an appendices providing data such as.

* Section 4.4 was modified on June 10, 1997, by Amendment No. 005

4.5 NON-PUBLIC WATER SYSTEMS

Where individual wells are proposed for the supply of drinking water to residences establishments, the subdivider shall include in the final engineering report the quantitative and qualitative results of sampling the test wells in accordance with Section 2 of these Regulations. The results of such analyses shall be made available to the prospective property owners. The developer's engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next thirty (30) years. Such statement may be based on information available from the Texas Water Development Board's Groundwater Unit of the Water Data Collection and Planning Division. The description of the needed sanitary control easement shall be included.

4.6 ON-SITE SEWERAGE FACILITIES

Where private on-site sewerage facilities are proposed, the final engineering report shall include the soils information and percolation test results required for a Subdivision Construction Authorization under Chapter 8 of the County's Rules for On-Site Sewerage Facilities.

4.7 CENTRALIZED PUBLIC WATER SYSTEMS[±]

4.7.1 Where water supplies are to be provided by an existing political subdivision of the state, including a city, municipal utility district, water control and improvement district, nonprofit water supply corporation, or an existing investor owned water supply corporation, the subdivider shall furnish an executed contractual agreement between the subdivider and governing board of the entity or owner of the utility to the effect that necessary arrangements have been made by the subdivider and the entity for the provision of a sufficient water supply to serve the ultimate needs of the subdivision . Before final plat approval, plans and specifications for the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed project. Entities having jurisdiction, in this instance, may include the political subdivision in addition to the Texas Department of Health and the El Paso City-County Health District. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include comments regarding the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.

4.7.2 Where there is no existing entity or owner to construct and maintain the proposed water facilities and distribution facilities, the subdivider shall establish an investor-owned utility and obtain a Certificate of Convenience and Necessity (CCN) from the Texas Water Commission and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a

[±] Section 4.7 was modified on June 10, 1997, by Amendment No. 005

groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated to satisfy the ultimate fully developed needs of the subdivision.

4.8 CENTRALIZED SEWERAGE FACILITIES*

- 4.8.1** Where sewer supplies are to be provided by an existing political subdivision of the state, including a city, municipal utility district, water control and improvement district, nonprofit water supply corporation, or an existing investor owned water supply corporation, the subdivider shall furnish an executed contractual agreement between the subdivider and governing board of the entity or owner of the utility to the effect that necessary arrangements have been made by the subdivider and the entity for the provision of a sufficient sewer supply to serve the ultimate needs of the subdivision. Before final plat approval, plans and specifications for the proposed sewer facilities system shall have been approved by all entities having jurisdiction over the proposed project.
- 4.8.2** Where there is no existing entity or owner to construct and maintain the proposed wastewater treatment and collection facilities, the subdivider shall establish an investor-owned utility by obtaining a Certificate of Convenience and Necessity (CCN) from the Texas Water Commission. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.

4.9 CERTIFICATE AND ACKNOWLEDGMENTS

- 4.9.1** The following certificates and acknowledgments, and all other now or hereafter required, shall appear on the first sheet of the final plat:
- 4.9.1.1** Include book and page of restrictive covenants if any:
- 4.9.1.2** A statement signed and acknowledge by the owner(s) dedicating all streets, alleys, easements, parks and other open spaces to public use; or when the subdivider has made provisions for perpetual maintenance thereof, to the inhabitants of the subdivision. The acreage out of each original survey, if out of more than one tract or more than one original survey, shall be separately displayed in tabular form.
- 4.9.1.3** The signatures of the Mayor and secretary of the Town of Horizon City, Texas and appropriate Town planning officials, if applicable, attesting to approval of the plat.

* Section 4.8 was modified on June 10, 1997, by Amendment No. 005

- 4.9.1.4** Certification by a professional engineer or registered surveyor that the plat represents a survey made by him, and that all the necessary survey monuments are correctly shown thereon.
- 4.9.1.5** Certification for signature by the Town Clerk attesting to the date and fact filing for record and book and page of record in the Plat Records of El Paso County.
- 4.9.1.6** If any portion of any lot shown on a subdivision final plat is covered by the "A" zone as per FEMA flood plain maps the building elevation (one foot (1') above the 100-year flood level) for each site so affected shall be determined by an engineer, and shall be shown on the plat, with a professional engineer's certification.
- 4.9.1.7** An endorsement that no roads will be maintained by the Town until paved by the subdivider or property owner and legally approved and accepted by the Town.
- 4.9.1.8** A notation that no more than one single family detached dwelling shall be located on each lot.

4.10 OTHER DATA REQUIRED WITH FINAL PLAT*

All final plats shall incorporate all the provisions relating to preliminary plat approval where appropriate and reflect the conditions of the final requirements and previously imposed requirements by the Town Engineer or Town Council, together with the following additional requirements:

- 4.10.1** Two copies of detailed information relating to the continuous maintenance of the private streets, together with copies of all proposed agreements thereto;
- 4.10.2** Three copies of detailed construction plans for streets and drainage shall bear the seal and signature of a professional engineer shall be submitted with the final plat for review and approval of the Town Engineer;
- 4.10.3** A good and sufficient bond or letter of credit for the proper construction and maintenance of the streets, drainage facilities, water systems, sewerage facilities, monuments, in addition to such other sureties as may be approved by the Council in accordance with these Regulations if Recording Plat is to be presented to Council for approval prior to subdivision construction being completed and approved.
- 4.10.4** Provide documentation and copies of Utility Comment sheets from any other utility and/or service companies serving the immediate area (electric power, telephone, and gas) which state what services will be available to the subdivision;
- 4.10.5** A tax certificate (receipt) from all taxing entities that levy ad valorem taxes within the Town, certifying that all taxes for the subdivision have been paid;
- 4.10.6** A copy of the restrictions and covenants to be recorded, if any

* Sub-section 4.10.3 was modified and 4.10.8 was deleted on September 10, 2002, by Amendment No. 009

4.10.7 Proof of ownership must be provided;

4.11 PREPARATION OF RECORDING PLAT^{*}

4.11.1 SUBMITTAL OF RECORDING PLAT

Within twelve (12) months of the approval of the final plat by the Town Council, the subdivider must submit the recording plat to the Town Council with appropriate fees, for approval. The recording plat shall conform with the approved final plat and shall comply with all provision of these Regulations.

4.11.2 EXPIRATION OF FINAL PLAT APPROVAL

Failure of the subdivider to submit a recording plat within twelve (12) months of the approval of the final plat by the Town Council will nullify the approval of the subdivision plat and obligate the subdivider to reapply for preliminary plat approval, should the subdivider wish to pursue the subdivision. No vested rights will survive if the plat approval is nullified by a failure of the subdivider to submit a recording plat within the timeframe specified in this section, nor shall the subdivider be entitled to a refund of any application fees or review fees that may have been paid. The Town Council, however, shall have the right to reaffirm its approval of the final plat upon a written request for the same by the subdivider. Only a single extension of the deadline for submitting a recording plat will be allowed, and then not for a period longer than an additional six (6) months.

4.12 REVIEW AND APPROVAL OF FINAL PLATS[†]

4.12.1 SCOPE OF REVIEW

The Town will review the final plat to determine whether it meets with standards of Section 2 and the requirements of Section 4.

4.12.2 PREREQUISITES TO APPROVAL

Final plat approval shall not be granted unless the subdivider has accomplished the following:

4.12.2.1 Dedicated the sites for the adequate water and wastewater treatment facilities to the appropriate political subdivision or investor owned utility responsible for operation and maintenance of the facilities; and

4.12.2.2 Provided evidence that the water facilities and wastewater facilities have been constructed and installed in accordance with the criteria established

* Sub-sections 4.11.1 & 4.11.2 were added on July 20, 2004 by Amendment No. 012

† Sub-sections 4.12.2.2, 4.12.2.3, and 4.12.2.6 were modified on June 10, 1997, by Amendment No. 005

within these Regulations and approvals from the Texas Health Department and TNRCC or the Municipal Utility District, as appropriate, of the plans and specifications for such construction , including any change orders filed with these agencies, or

4.12.2.3 If the water and wastewater system is not connected to an established and regulated Municipal Utility District, the subdivision shall have obtained all necessary permits for the proposed water facilities and wastewater facilities and has entered into a financial agreement with the County secured by a bond or other alternative financial guarantee such as cash deposit or letter of credit for the provision of water and sewerage facilities and roads and streets with the bond or financial guarantee meeting the criteria established in Section 9 of these Regulations.

4.12.2.4 Received approval from the El Paso City-County Health District if appropriate.⁺

4.12.2.5 Paid all required fees.

4.12.2.6 Subdivision Sign Requirements. For those subdivisions not connected to an established and regulated Municipal Utility District, the subdivision developer shall erect two signs stating the availability of portable water and public sewer service that will be provided in the subdivision. The sign shall be as described in Figure 4.1 and 4.2 and must be visible and clearly legible from a public road within the subdivision as determined by the Town Engineer. The subdivider shall maintain said sign for a period of at least one year or until all lots are sold, whichever is longer. The subdivider shall notify the Town and the Town Engineer shall locate and verify the placement of the sign prior to final approval by the Town Council.

4.13 WITHDRAWAL OF FINAL PLATS

A final plat may be withdrawn by the applicant prior to filing for record. Request for withdrawal shall be made officially in writing. No refund of processing fee shall be made on withdrawn subdivision plats.

4.14 APPROVAL AUTHORITY

4.14.1 The Town Council shall approve a final plat which has met all requirements of these Regulations, including those for the construction of utilities and roads.

4.14.2 Upon final approval by the Town Council, an approval order shall be entered in the minutes of the Council. In addition, the Council shall issue a certificate stating that the plat has been reviewed and approved by the Council.

4.14.3 The Town Council shall refuse to approve a plat if it does not meet the requirements prescribed by or under these Regulations.

⁺ Sub-section 4.12.2.4 was modified on September 10, 2002, by Amendment No. 009

SECTION 5. SUBDIVISION PLAT DESIGN STANDARDS*

5.1 GENERAL REQUIREMENTS

No developments shall be approved unless the subdivider provides for the construction of such streets and sidewalks as are necessary to serve the proposed development in accordance with the requirements and design standards of this Article.

The layout of streets shall provide for integrating new development with existing and future development in a manner that provides for traffic safety, public convenience, emergency access, and traffic patterns consistent with the land uses and intensities proposed by Town's Master Plan.

5.2 CONFORMANCE TO MAJOR THOROUGHFARE PLAN REQUIRED

5.2.1 No development shall be approved that is in conflict with, or would otherwise impede the implementation of, the town's Major Thoroughfare Plan.

5.2.2 When a property proposed for development includes all or any portion of a major thoroughfare, as designated by the town's Major Thoroughfare Plan, the developer shall incorporate said thoroughfare in the subdivision layout. The developer shall consult with the Planning Director prior to submitting a preliminary plat regarding the required width of the thoroughfare.

5.2.3 Because development of property has the potential of increasing vehicular traffic on streets adjacent to and beyond the boundaries of the development, a rational nexus shall be presumed to exist between the development of a property and the need for thoroughfare improvements. In no instance shall a developer be exempted from dedicating the necessary right-of-way for a planned thoroughfare that would cross all or any portion of his, her or their development. The Town Council may, however, exempt a developer from having to fully improve a thoroughfare provided the developer submits a traffic impact study that demonstrates that such full improvements are neither necessitated by, nor attributable to, the new development.

5.2.4 No property owner shall be relieved of the responsibility of dedicating and improving his, her, or their portion of a major thoroughfare by virtue of having subdivided all or any portion of a parcel by metes and bounds or any other means other than a publicly-approved and filed subdivision plat

5.3 COORDINATION WITH SURROUNDING STREETS

* Section 5 was substantially revised with the exception of Sub-sections 5.5 and 5.10 through 5.14 on July 10, 2004 by Amendment 013

- 5.3.1 The street system for each development shall be coordinated with existing, proposed and anticipated streets within and outside the development, and streets shall be extended outside the development when necessary for adequate access, safe traffic circulation, or for other reasonable traffic considerations.
- 5.3.2 Streets shall be aligned with existing or proposed streets of adjoining properties, except where the town's Master Plan, topographic conditions, requirements of traffic circulation, or other planning considerations make it desirable to depart from the alignment.
- 5.3.3 Stub-end streets, extended to the property line of a development, shall be provided whenever a development abuts unplatted, undeveloped land so as to avoid land-locking property and to provide for the needs of future development. Such stub-end streets shall generally be spaced no further than one thousand three-hundred (1,300) feet (~ 396m) apart so as to avoid excessive block lengths.
- 5.3.4 The extension of residential or collector streets may be denied if it is determined that the extension would provide for an unacceptable use of the street for substantial through-traffic.

5.4 LOT FRONTAGE AND ADEQUATE ACCESS

All developments shall provide a network of streets, on-site and off-site, as necessary to ensure safe and adequate access to the development and to each lot therein, and each lot in a subdivision shall abut on a dedicated public or private street meeting or exceeding the requirements of these specifications.

In determining the access requirements for a development, the following shall be considered:

- 5.4.1 Access for police, fire and other emergency vehicles, in terms of both street cross-section and time-of-response;
- 5.4.2 The condition and traffic ability of existing streets outside of the development but necessary for gaining access to the development;
- 5.4.3 Congestion that may be created at proposed or existing intersections as a result of the development;
- 5.4.4 Provision of more than a single means-of-access to developments likely to generate more than five thousand (5,000) vehicle trips per day; and,
- 5.4.5 Any other condition, existing or proposed, that may affect public safety.

5.5 STREET RIGHT-OF-WAY WIDTHS[±]

[±] Section 5.5 was modified to reduce right-of-way minimums to 52 ft. on September 10, 2002, by Amendment No. 009

The minimum street right-of-way widths in subdivisions shall not be less than fifty-two feet (52) for local streets.

5.5.1 The minimum street right-of-way widths in all subdivisions shall not be less than fifty-two feet (52) for minor residential streets, except cul-de-sacs of seven hundred fifty feet (750) in length or less, may be fifty feet (50); sixty four feet (64) for neighborhood collector streets; seventy-six feet (76) for thoroughfares and industrial streets; eighty-four feet (84) for arterials; and one hundred and twenty feet (120) for State designated roadways.

5.6 IMPROVEMENT TO EXISTING OFF-SITE STREETS

5.6.1 Wherever a development is to utilize existing road frontage, such road frontage shall be improved sufficient to provide for the safe movement of the amount and type of traffic generated by the development. Such off-site street improvements or repairs need not meet the specifications for new streets, but shall include such patching, reconstruction or the providing of asphalt overlays as are determined necessary by the Town Engineer.

5.6.2 A developer shall not be required to make off-site street improvements beyond the nearest intersecting arterial or collector streets.

5.7 EASEMENTS - GENERALLY

Town Subdivisions: - Easements for utilities and/or roadway drainage may be required across parts of lots or along lot lines as required by the Town Engineer for normal roadway drainage relief. A spacing, not to exceed four hundred ft. (400) along the roadway, shall be used for drainage easements unless analysis of runoff shows greater spacing is required.

5.7.1 Drainageway Easements: - Easements shall be retained along drainage ways which cross proposed roads, which carry drainage away from roads, or which convey main drainage from and through the lots or tracts. Easements shall be a minimum of fifteen (15) wide. Easement alignment shall follow the appropriate line of the channel on maximum fifty feet (50) chords, and wherever possible, shall be located along lot lines. A suitable note on the plat must restrict all properties within the subdivision insuring that drainage easements within the plat boundaries shall be kept clear of fences, building, planting and other obstructions to the operations and maintenance of the drainage facility. The abutting property shall not be permitted to drain directly into this easement except by means of a drainage structure approved by the Town Engineer.

5.7.2 Privately-owned Easements, Fee Strips: - All easements or free strips created prior to the subdivision plat with appropriate notations indicating the name of the holder of such easement or free strip, the purpose of the easement and the facilities contained therein, the dimensions of the easements or free strip tied to all adjacent lot lines, street right-of-way and plat boundary lines and the recording reference of the instruments creating and establishing said easements have not been defined by accurate survey dimensions, such as "over and

across" type easements, the easement to accurately define the limits and location of his easement through the property within the plat boundaries.

If the holder is such undefined easement does not define the easement involved and indicates his refusal to define such easement to the Town Engineer, the subdivision plat must provide accurate information as to the centerline location of all existing pipelines or other utility facilities placed in conformance with the easement owners' rights.

A letter, statement, or other instrument from the owner of any privately-owned easement, or fee strip within the plat boundaries must be provided where such easements or fee strips are proposed to be crossed by streets (either public or private) or public utility or drainage easements, stating that the owner of such easement or fee strip approves such crossing of his/her private easements or fee strips for the purposes intended and depicted upon the plat.

Where an instrument of record is submitted in lieu of a letter or statement from the owner of any such private easement or fee strip, the Town Engineer shall then refer such instrument to the Town Attorney for a determination as to whether the condition in such instrument are sufficient to adequately provide or accommodate the crossings of such private easement or fee strip by the proposed streets (either public or private) or public utility or drainage easements depicted on the plat.

5.7.3 ETJ Subdivisions: - Easements shall be as established under the appropriate municipality's subdivision requirements for ETJ subdivisions.

5.8 CONSTRUCTION STANDARDS

5.8.1 All required street improvements shall comply with the Subdivision Design Improvement Standards, which are appended to this Article

5.8.2 Street pavement sections shall be designed based on the type and volume of expected traffic at full development.

5.8.3 All required street improvements shall be constructed in accordance with applicable elements of the Standard Specifications for Construction and Maintenance of Highways, Street and Bridges, 2004 edition, as published by the Texas Department of Transportation.

5.9 ROAD MANAGEMENT DATA

The developer shall supply the Town Engineer a 3 1/2" data diskette with pertinent information necessary for the addition of streets within the proposed subdivision for inclusion into the Town Pavement Management System. The Town Engineer shall supply the developer the format for preparation of the data diskette.

If the developer cannot provide the data diskette, then the Town Engineer will acquire the pertinent information from the developer on a prepared from and assess a service charge to the developer.

5.10 TOPOGRAPHY AND ARRANGEMENT

- 5.10.1** Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these Regulations.
- 5.10.2** All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights of way.
- 5.10.3** Minor or local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
- 5.10.4** Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Town Engineer such extension is not necessary or desirable for the coordination of the subdivision with the existing layout or for the most advantageous future development of adjacent tracts.

5.11 BLOCKS

- 5.11.1** Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads or waterways.
- 5.11.2** The lengths, widths, and shapers of blocks shall be such as are appropriate for the locality, and the type of development contemplated, but block lengths in residential areas shall not exceed one thousand three hundred (1,300) feet nor be less than four hundred (400) feet in length.

5.12 ACCESS TO PRIMARY ARTERIALS

Where a subdivision borders on or contains an existing or proposed primary arterial, access for residential lots from such streets shall be limited by one of the following means:

5.12.1 The Subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the primary arterial.

5.12.2 A series of cul-de-sacs, U-shaped streets, or short loops entered from a designed generally at right angles to such a parallel street; with the rear lines of their terminal lots backing onto the major arterial.

5.13 RESERVE STRIPS

The creation of reserve strips shall not be permitted adjacent to proposed streets in such a manner as to deny access from adjacent property to such street.

5.14 CONSTRUCTION OF ROADS AND STUB-END ROADS

5.14.1 CONSTRUCTION OF ROADS

The arrangement of streets shall provide for the continuation of principal streets between the adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection or for efficient provision of utilities. If the adjacent property is undeveloped and the street must be a temporary stub-end street, the right-of-way shall be extended to the property line. A temporary T – or temporary L – shaped turnabout shall be provided on all temporary stub-end streets, with the notation on subdivision plat, if applicable, that the land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Town Engineer may limit the length of temporary stub-end streets in accordance with the Town Design Standards of Regulations.

5.14.2 STUB-END STREETS

Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Town Engineer for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Town Engineer may require the reservation of an appropriate easement to accommodate drainage facilities for utilities. A cul-de-sac turnaround shall be provided at the end of a permanent stub-end streets shall, in general, be limited in length in accordance with the Town Design Standards of these Regulations.

5.15 DESIGN STANDARDS

5.15.1 GENERAL

In order to provide for roads of suitable location, width, and improvement to accommodate prospective traffic, and afford satisfactory access to police, firefighting, sanitation, and road maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the design standards for roads as enumerated below and

as depicted in the Subdivision Design Improvement Standards that are appended to this Ordinance are hereby required.

5.15.2 Intersections:

- 5.15.2.1** Streets shall be laid out so as to intersect as nearly as possible at a ninety-degree angle. Curvilinear streets shall generally be designed with a tangent section not less than 100 feet (~30m) in length at the approach an intersection. Not more than two streets shall intersect at any one point.
- 5.15.2.2** Proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of the street. To the extent practicable, streets of new developments shall align with existing or proposed streets within surrounding development except where, in the opinion of the Town Engineer, topography, requirements of traffic circulation or other considerations make it desirable to depart from such alignment. Where an offset (jog) in street alignment is unavoidable, the minimum offset in street centerlines shall be 150 feet (~46m).
- 5.15.2.3** Streets shall not intersect at a point where horizontal or vertical curves or other obstructions to visibility would restrict sight distance to less than that of the stopping sight distances for the class of the respective intersecting streets.
- 5.15.2.4** Street intersections shall be designed with a relatively flat grade whenever possible. In hilly areas, a street approaching an intersection shall not have a grade in excess of two percent (2%) for a distance of sixty (60) feet (~18m), as measured from the nearest projected right-of-way line of the intersecting street.
- 5.15.2.5** Minimum paving radius at the intersection of two (2) residential streets shall be at least twenty (20) feet; and minimum paving radius at an intersection involving a collector street shall be at least twenty-five (25) feet.
- 5.15.2.6** The cross-slopes on all streets, including intersections, shall be three percent (3%) or less.

5.15.3 Medians:

- 5.15.3.1** When any development is required to provide more than one-half of any arterial street, a median shall be provided in accordance with the Subdivision Design Improvement Standards that are appended to this Chapter.
- 5.15.3.2** Developments may provide medians as part of Residential Collector Streets, as provided by the Subdivision Design Improvement Standards, but such median surfaces must be landscaped with drought-tolerant, low maintenance plant materials. The developer shall submit plans for such median landscaping to the Director of Public Works shall be required prior to the recording of the subdivision plat.

5.15.4 Cul-de-sacs and Dead-end Streets

- 5.15.4.1** Cul-de-sacs or loop street may be used to discourage through traffic on local streets.
- 5.15.4.2** The length of the street that terminates in a cul-de-sac shall not be more than seven hundred fifty (750) feet (~230m), measured from the center point of the cul-de-sac to the centerline of the nearest intersecting street.
- 5.15.4.3** The right-of-way of a cul-de-sac shall have a minimum radius of fifty (50) feet (~15m). The Town Engineer may require a larger radius of a cul-de-sac is to serve non-residential development.
- 5.15.4.4** In circumstances where a street provides the sole means of access to one or more building lots, and where such street terminates at a development boundary from which it is later to be extended by a subsequent development, the developer shall provide a temporary turn-around, and said temporary turn-around shall be contained within an easement so designated on the subdivision plat.
- 5.15.4.5** All permanent cul-de-sacs shall be built in accordance with design standards for streets and shall be provided with curbs and gutters. Temporary cul-de-sacs for dead end streets that are proposed to be extended shall be designed and built in accordance with the Subdivision Design Improvement Standards that are appended to this Chapter.
- 5.15.4.6** A stub-end street or other dead-end street that does not terminate in a cul-de-sac turn around shall not be used to give access to an individual lot development unless the requirement to develop a cul-de-sac turn-around is specifically waived by the Town Council based on circumstances unique to the property.

5.15.5 Alleys:

- 5.15.5.1** Alleys may be allowed in or required for developments in nonresidential zoning districts where such alleys were deemed necessary to provide access for service vehicles, off-street loading or unloading, access for emergency vehicles or similar reasons consistent with the intent of this Article.
- 5.15.5.2** Alleys may be allowed in residential developments zoned Planned Unit Development when the development employs alleys for accessing residential off-street parking spaces in lieu of conventional street access.
- 5.15.5.3** All alleys shall have at least two direct access points to local public streets; dead-end alleys will not be permitted.
- 5.15.5.4** Alleys shall not have direct access to arterial streets, nor shall alleys be allowed to connect to collector streets unless the Town Engineer determines that there is no other reasonable means of access and such connection will not create a traffic hazard.
- 5.15.5.5** Alleys shall not be dedicated to the public except where such dedication is determined to serve the public interest. Alleys shall, however, be available for emergency services and for vehicles and staff of the town's Public Works Department.
- 5.15.5.6** Alleys not dedicated to the public shall be subject to the private road requirements of §5.15.6.

5.15.6 Private Roads:

- 5.15.6.1** For the purpose of this section, a “private road” shall mean any open way used for vehicular traffic, not dedicated to public use and not part of a parking lot, designed and used to provide vehicular access to a development or lot. Private roads shall generally be restricted to developments with controlled access, said access control being by means of a privately-constructed entrance features and privately-operated security services. Private roads shall, however, be available for emergency services and for vehicles and staff of the town’s Public Works Department.
- 5.15.6.2** A development may be approved with one or more private roads when:
- 5.15.6.2.1** Such private roads will have direct access onto one or more dedicated public streets;
 - 5.15.6.2.2** Such private roads are not necessary or planned to serve or provide for traffic or drainage outside the development;
 - 5.15.6.2.3** Such private roads are so routed or designed so as to discourage through traffic; and
 - 5.15.6.2.4** Such private roads will provide for adequate access, the safe movement of traffic, drainage and generally serves as an adequate alternative to a public street.
- 5.15.6.3** When the private road will serve more than one lot, the developer shall submit to the Town Council for approval a written and binding declaration, to be recorded concurrently with the filing of the subdivision plat, establishing an owners’ association or similar legal entity that will have:
- 5.15.6.3.1** The legal authority to maintain and exercise control over the road; and,
 - 5.15.6.3.2** The power to complete contributions from owners within the development to cover their proportionate shares of the cost associated with maintenance of the road.
- 5.15.6.4** Private roads shall be designed and built in conformance with the Subdivision Design Improvement Standards, as referenced in §5.8, except that the Town Engineer may approve alternative paving surfaces that provide equally well for the traffic-carrying function and durability of said roads.
- 5.15.6.5** Parking areas or spaces may be developed as an integral part of a private road provided that the Town Engineer determines that such parking areas or spaces will not create a traffic hazard.

5.16 PERIMETER STREETS*

5.16.1 NEW PERIMETER STREETS

Street systems shall be laid out so as to avoid creating partial streets that have less than the full required right-of-way and pavement width for the required class of street. However, if an arterial street is proposed by the town's Major Thoroughfare Plan on the boundary of the development, or in close proximity to the development, or if the development creates the need for a new perimeter street, the development shall provide that portion of the perimeter street for which it reasonably creates the need, but in no case shall that portion of the street provided be less than a pavement width of thirty-three (33') feet (~10m). All perimeter streets shall be provided with curb and gutter along the side abutting the development. If the perimeter street is ultimately proposed to serve as a divided arterial street and the development is required to install half of the arterial street, then curb and gutter shall be provided on both sides of the perimeter street so as to provide the curb for the future median of the arterial street.

5.16.2 EXISTING PERIMETER STREETS

5.16.2.1 Any development abutting an unimproved or partially improved perimeter street shall dedicate such additional right-of-way and improve or reconstruct the street as may be necessary to complete the perimeter street to the classification required. For the purpose of this subsection, an "unimproved perimeter street" shall mean a perimeter street that does not substantially comply with the street design specifications or requirements of this Ordinance, generally given evidence by the absence of paving or curb and gutter.

5.16.2.2 Where a development would be required by this Ordinance to improve an existing unimproved perimeter street that is designated in the town's Major Thoroughfare Plan as an arterial street to less than its full width, the developer may elect in lieu of making the required perimeter street improvements, to pay to the town prior to beginning construction the total construction cost, excluding engineering and design cost, of the required street improvements. The amount to be paid shall be determined by the Town Engineer, based on the actual cost of providing for the improvements, as shown in the most recent public bids for the same or similar type street improvements. If the money paid to the city is not used for the required improvements within five (5) years of payment, the funds shall be returned to the person or entity making the payment.

5.16.3 EXCEPTION TO PERIMETER STREET REQUIREMENT

The provisions of this section requiring the improvement of existing unimproved perimeter streets to the town's specifications for new streets shall not apply to state or federal highways.

5.17 DRAINAGE AND STORM SEWERS

* Section 5.16 was added on September 10, 2002, by Amendment No. 009

5.17.1 No subdivision shall be approved which does not make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by such methods as are approved by the Town Engineer. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than six hundred (600) feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used intercept flow at that point.

5.17.2 NATURE OF STORM WATER FACILITIES

5.17.2.1 Location. The subdivider shall be required by the Town Engineer to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the Town Design Standards. See Appendix for specific standards.

5.17.2.2 Accessibility to public Storm Sewers. Where a public storm sewer is accessible, the subdivider shall install storm sewer facilities. If no outlets are located within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the Town Engineer. However, in subdivisions containing lots less than 10,000 square feet in area, served by central sewage facilities and served by an approved public water system, storm sewer systems shall be constructed throughout the subdivision.

5.17.2.3 Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential pass through runoff from its entire upstream area, whether inside or outside the subdivision. The Town Engineer shall determine the necessary size of the facility, based on the provisions of the Town Design Standards and specifications assuming conditions of maximum potential watershed development.

5.17.2.4 Effect on Downstream Drainage Areas. The Town Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Town drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Town Council shall withhold approval of the subdivision until provision has been made for the improvement of said potential condition. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

5.17.2.5 Areas of Poor Drainage. The Subdivision of an area which is subject to flooding may be approved by the Town Council provided that the subdivider fills the affected area of said subdivision to an elevation of streets and finish floor elevation of structures at a minimum of twelve (12) inches above the elevation of the maximum probable flood. Any

modifications must be in accord with any proposed sewage disposal plan for the area.

5.17.3 DEDICATION OF DRAINAGE EASEMENTS

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

5.17.3.2 DRAINAGE EASEMENTS

- A.** Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to a road. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
- B.** When the proposed subdivision drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured.
- C.** The subdivider shall dedicate, either in fee or by drainage easement, land on both sides of existing watercourses to a distance to be determined by the Town Engineer.
- D.** Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be included in determining the area requirement for any lot.

5.17.4 DRAINAGE PONDING AREAS AND BASINS*

5.17.4.1 Drainage ponds, when required, shall be designed to provide sufficient capacity from the contributing drainage area equivalent of both the volume of stormwater generated by a one percent probability (100-year return frequency) storm event, and a ten-year accumulation of silt. In special circumstances, a lesser capacity may be authorized by the Horizon City Director of Public Works provided alternative means are provided to pass the design storm without causing injury, a hazard or a public nuisance. All calculations shall be made by a professional engineer

* Sub-sections 5.17.4 was added in its entirety, on February 10, 2004, by Amendment No. 011

registered to practice in the state of Texas, and shall be subject to review and approval by the Town Engineer.

5.17.4.2 Drainage ponds shall be designed to facilitate maintenance. When ponds are not otherwise accessible by equipment from adjoining paved surfaces, access roads, not less than ten-feet in width and not steeper than ten percent grade, shall be provided giving access to the base of drainage ponds from public streets. The dimensioning of ponds shall provide adequate space for the maneuvering of trucks and equipment as may be deemed appropriate by the Town's Director of Public Works and Town Engineer. A permanent monument shall be placed at the base of the drainage pond to provide a benchmark for referencing the invert elevation of the drainage pond. Said monument shall be shown on the engineering plans for the drainage pond construction.

5.17.4.3 Appropriate measures shall be taken in both the drainage pond design and construction to minimize erosion potential. Such measures shall be determined by the Town's Director of Public Works and Town Engineer. At minimum, the design and construction of drainage ponds shall provide for the following:

- A.** Site grading and perimeter control measures shall be used to prevent uncontrolled inflow into drainage ponds; stormwater inflow shall only be permitted via reinforced concrete drainage flumes or stormwater drainage pipes.
- B.** At all points of stormwater discharge into drainage ponds, velocity dissipaters shall be provided based on good engineering practice.
- C.** The base of all inflow structures and all side slopes shall be compacted to a density of not less than 90 percent, based on the standards of the American Association of State Highway and Transportation Officials (AASHTO).
- D.** The maximum steepness of side slopes of drainage ponds shall be a ratio of two units in the horizontal for every one unit of vertical elevation change; the Director of Public Works shall be authorized to permit steeper side slopes only if a soils engineer certifies that such steeper slopes do not exceed the angle of repose of the native soil.
- E.** If, in the opinion of the Town's Director of Public Works or Town Engineer, soil conditions present an erosion risk, even when properly compacted, armoring of all or any portion of the side slopes of drainage ponds shall be required. Suitable armoring or other slope stabilization may be provided by reinforced concrete, riprap, rock riprap, soil cement, or other like material.
- F.** The City will allow and does encourage the maintenance of existing, native plants along the side slopes as an erosion control strategy.

5.17.4.4 To provide for public safety and ensure compatibility with adjoining development, perimeter treatment shall be required for all drainage ponds. The following criteria shall govern perimeter

treatment unless the developer can demonstrate that alternative means will provide equal or superior protection to the public interest:

- A.** All ponds dedicated to the public shall be enclosed by a six-foot high masonry wall. Such walls shall be constructed at the time drainage ponds are developed, without regard to the timing of construction of buildings on adjoining properties.
- B.** Access to enclosed ponds shall be provided by a wrought iron gate or a steel gate of similar appearance. A locking mechanism for the gate shall be provided in accordance with criteria to be specified by the Director of Public Works.
- C.** Five-foot wide concrete sidewalks shall be provided adjacent to the rock walls along all perimeter boundaries of drainage ponds that abut public street rights-of-way.
- D.** The parkways lying between required sidewalks and street curbing shall receive landscape treatment consisting of chat materials and, whenever possible, suitable desert plantings. Any plant materials so employed must be sufficiently drought-tolerant so as not to require supplemental irrigation.
- E.** When site conditions so permit, existing, native plants are not to be disturbed along the perimeter of drainage ponds so as to provide a visual buffer from other nearby development. This provision is not meant to apply to the base of the ponding areas from which all plant materials are to be removed.

5.17.4.5 The use of park areas as drainage ponds is discouraged, but may be permitted under conditions where neither use impairs the other, and where the siting and dimensioning of the park is appropriate based on good planning practices and in accordance with such plans and policies that may be adopted regarding outdoor public recreation. The application of these principles shall be solely vested in the Planning and Zoning Commission and City Council. The burden shall be on the developer to demonstrate that the combining of both park and drainage ponding usage is appropriate and in the public interest. The following criteria shall govern the combined use of site for both park purposes and drainage ponding purposes:

- A.** Because the use of property for park purposes implies ready public access, the perimeter rock wall requirement is not applicable when park and drainage ponding areas are combined; the sidewalk and parkway landscaping requirements, however, shall remain in force.
- B.** No slope greater than ten units in the horizontal and one unit in vertical shall be permitted in combined park and drainage ponding areas.
- C.** Permanent improvements, such as playground equipment and facilities, shall be limited to those improvements that can withstand prolonged periods of inundation. Consequently, the appropriateness of combining park and drainage ponding use

will be determined, in part, based on the desired, ultimate development of the park space.

- D.** The design of drainage inflow shall ensure that the maximum incoming stormwater velocity, under design storm conditions, will not exceed five feet per second in any area accessible to the general public. Furthermore, provisions shall be made to ensure that stormwater inflow will not cause scouring or other erosion damage to the park ground surface.
- E.** Site grading for combined park and drainage ponding areas shall be such that no more than 50 percent of the park will remain inundated for a period of more than 72-hours following a storm of a 10-year return frequency. Infiltration tests shall be required to demonstrate the adherence to this standard.
- F.** The maximum depth of standing water permitted in a combined park and drainage ponding area shall not exceed four feet.
- G.** Turf or other planting is desirable as plant roots maintain the friability of soil and thus facilitate infiltration. Therefore, developers are encouraged to install turf together with necessary irrigation systems based on criteria that shall be specified by the Director of Public Works.
- H.** Developers that choose to combine parks and drainage ponding areas may only claim credit for parkland dedication, as required by Ord. 0035, when turf or other landscape materials and necessary irrigation systems are installed. Costs incurred in such site improvements shall not reduce the calculation of park area otherwise required.
- I.** When developers propose combining park space and ponding areas, innovative designs will be allowed and are preferred to separately impound runoff from 10-year return frequency storms and only use the park space as overflow for stormwater inflows from storms of greater magnitude.

5.17.4.6 Drainage ponding area requirements of the Horizon City are in addition to such design and permit requirement as may be imposed by the Texas Pollutant Discharge Elimination System (TPDES) program, and the Federal National Pollutant Discharge Elimination System (NPDES). In the event of a conflict between the provisions of this ordinance and either the TPDES or NPDES, the latter will supersede. Lacking a conflict in such regulatory standards, the more stringent standard will govern.

5.17.4.7 The interpretation and application of the criteria in this ordinance will be based on a standard of reasonableness with regard to public health, safety and welfare. The Director of Public Works shall apply the regulations accordingly.

5.18 FLOOD HAZARD AREAS

If a subdivision or a portion of a subdivision is in an area that has been defined as a Flood Hazard Area by the U.S. Department of Housing and Urban Development maps, then said subdivision or portion of subdivision shall be constructed according to the Regulations passed by the Town Council and by regulations set by the National Flood Insurance Program as stated in the Federal Register Vol. 41, No. 207-Tuesday, January 26, 1988 and any amendments thereto. The Town Council may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area, prohibit the subdivision of any land which lies within the flood plain of any stream or drainage course.

5.19 LOT SIZE REQUIREMENTS

5.19.1 GENERAL REQUIREMENTS

- 5.19.1.1** In proposed subdivisions utilizing approved public water systems and approved organized off-site wastewater facilities and there is no on-site ponding for individual lots, the minimum individual lot size shall be no less than six thousand (6,000) square feet in area.
- 5.19.1.2** In proposed subdivision utilizing approved public water systems and approved organized offsite wastewater facilities and there is on-site ponding for individual lots, the minimum individual lot size shall be no less than ten thousand (10,000) square feet in area.
- 5.19.1.3** In proposed subdivisions utilizing approved public water systems and on-site sewage disposal systems, the minimum lot size shall be one-half (1/2) acre in area.
- 5.19.1.4** In proposed subdivisions utilizing non-public water systems and on-site sewage disposal systems, the minimum lot size shall be no less than ten (10) acres area.
- 5.19.1.5** In the event § 5.19.1.4 should be declared invalid, illegal or unenforceable by a jurisdiction and such judgment shall be upheld on final appeal, proposed subdivisions utilizing non-public water systems, shall have a minimum lot size of no less than one (1) acre in area.

5.19.2 LOT DIMENSIONS

Minimum lot frontage shall be no less than 50' at and behind building front setback line on 6,000 sq. ft. lots. On remaining lots, frontage may not be less than 1/3 of the length of the lot from front to back.

5.19.3 LOT DRAINAGE

Lots shall be laid out so as to provide positive drainage away from buildings and septic tank drain fields. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

5.20 MONUMENTS

5.20.1 The subdivider shall place reference monuments in the subdivision as required herein as approved by a registered land surveyor.

5.20.2 SIZE AND CONSTRUCTION

5.20.2.1 The Town survey monument shall be set in a poured-in-place, truncated concrete cone of eight (8) inches minimum diameter at the top, eighteen (18) inches minimum diameter at the bottom and shall be a minimum of thirty six (36) inches in depth.

5.20.2.2 The monument shall be covered with a steel or cast-iron box and cover.

5.20.2.3 Details of design are shown in the attached Appendix.

5.20.3 MONUMENT LOCATION

5.20.3.1 Monuments shall be installed so that all front property corners of all lots in the subdivision are within line of sight of a monument, or within sight of the line between two adjacent monuments.

5.20.3.2 Each monument shall be within line of sight of another monument.

5.20.3.3 Monuments shall be no farther than 2,000 feet apart.

5.20.3.4 At least one (1) monument shall be placed on each horizontal curve. Two shall be placed if the point of intersection (P.I.) of the tangents leading into the curve falls outside of Town right of way.

5.20.3.5 No fewer than two monuments shall be placed on one-street subdivisions.

5.20.4 The perimeter boundaries of a subdivision shall be monumented in the field by monuments of two (2) inch galvanized pipe, not less than twenty-four (24) inches in length. These monuments shall be placed at all corners, except that when any such corners or points fall within a street or proposed future street, the monuments shall be placed in the site line of the street.

5.20.5 The lines of lots that extend to rivers or streams shall be monumented in the field by iron pipes at least thirty (30) inches long and seven-eighths (7/8) inches in diameter or by round or square iron bars at least thirty (30) inches long. These monuments shall be placed at the point of intersection of the river or stream lot line with

a meander line established not less than twenty (20) feet back from the bank of the river or stream.

- 5.20.6** All corner monuments shall be properly set in the ground and approved by a registered land surveyor prior to filing of the final plat. All street monuments shall be properly set within two years of filing of final plat.

5.21 ADDRESSES-GENERAL*

It shall be the duty of the subdivider to assign addresses to each lot created within the new subdivision as set out by this section. All addresses must be approved by the Director of Public Works prior to submission of the final plat for acceptance.

- 5.21.1** Each lot created must be assigned a distinct address. When the new subdivision is an extension of an existing subdivision, the address sequence shall extend into the new subdivision. New addresses shall progress sequentially along each street in the manner so described in this section. The sequence shall progress in increments of four with the exception to maintain an existing sequence between two existing subdivisions. The block numbers shall follow the existing block plan for the City. Any lot that may be so configured as to have the possibility of either of two sides being a front property line, by way of being on a corner, shall have two addresses assigned as per the requirement of this section.

- 5.21.2** The assignment of addresses shall follow the sequence as set forth in this section. New primary addresses assigned to lots on streets that run in an east-west direction shall be assigned a five (5) digit address with odd numbered addresses assigned to the north side of the street and even numbered addresses assigned to the south side of the street. New primary addresses assigned to lots on streets that run in a north-south direction shall be assigned a three(3) digit address with the odd numbers addresses assigned to the west side of the street and even numbers addresses assigned the east side of the street. When proposed streets create a change in direction of greater than forty five (45) degrees but do not continue into a loop or circle, the sequencing of the addressing shall also change to accommodate the above-mentioned directional sequence. For example, an east-west directional street that changes direction to a north-south directional street shall change the numbering sequence from five (5) digit addresses to three (3) digit addresses. Any proposed street that continues in a loop shall be addressed starting with the closest entrance from a collector or arterial and with the required digit sequence that pertains to the beginning direction and continuing with said same sequence throughout the entirety of the street.

SECTION 6. STREET NAMING AND SIGNS†

* Section 5.21 "Addressed General" was added on March 8, 2005 by Amendment 014

† Section 6 was modified on January 10, 2006 by Amendment 016.

6.1 STREET NAMES

New streets in subdivisions shall be named so as to provide continuity of name with existing streets and so as to prevent conflict with identical or similar street names in other parts of Horizon City and the El Paso County area. Developers of subdivisions are responsible for the naming of street names in compliance with the following requirements of name components. Proposed street names must be submitted to the 911 District by the developer for approval. Extra Street names (a minimum of (5) five) shall be submitted to 911 at the same time for prior approval as the City retains the right to not use a name submitted, for any reason. An approved list of street names from 911 will be submitted to the Town Engineer's office and the Town's Public Works Director at least fifteen (15) days prior to requesting final plat approval.

6.1.1 Street Name Components

6.1.1.1 Street names shall be composed of letters from the English alphabet and Arabic numerals. Special characters typically used to clarify pronunciation (e.g. accent, tilde or umlaut) other than apostrophe and hyphen, are prohibited.

6.1.1.2 Each street name shall consist of at least a Root Street name followed by a Suffix. The Director of Public works may require the use of a directional prefixes. Priority shall be given to the use of a directional as the first element of a street name, pre-directional, over use as a post-directional, unless a post-directional is required to maintain consistency as provided in Ordinance 0107, Section 107.170.

6.1.1.3 Components of a Root Street name that can be defined as compass directions or road types shall not be abbreviated (e.g. Northwest Blvd). Numeric root street names may be either alphabetic or numeric, but not both (e.g. 3rd Street or Third Street).

6.1.1.4 Street type suffixes shall reflect the character of the roadway. The following street type are limited to the following uses:

- 1) "BOULEVARD" shall be reserved for use only on arterial streets.
- 2) "AVENUE" or "PARKWAY" shall be limited to streets measuring a minimum of 1,500 feet in length.
- 3) "COVE" and "COURT" shall be used on cul-de-sacs only.
- 4) "CIRCLE" is prohibited from use on cul-de-sacs.
- 5) "CIRCLE", "BEND" and "LOOP" shall be reserved for use only on circular/loop streets.

6.1.1.5 A street name and suffix shall be continued without variation across intersections, including those ending in cul-de-sac, unless for public necessity the Director of Public Works determines that the street name should change at an intersection.

6.1.1.6 Street root names shall not exceed sixteen (16) letters and spaces with a maximum of two (2) words.

6.1.1.7 All street signs shall include block numbers on the lower right corner as approved by the Director of Public Works.

6.1.1.8 Root street names beginning with numeric words shall be spelled out (e.g. “Thousand Oaks” rather than “1,000 Oaks”).

6.1.1.9 No more than three (3) two (2) word street names will be allowed the same beginning word.

6.1.2 Prohibited Street Names

The use of intentionally confusing street names such as the following is prohibited:

- DEAD END ROAD
- CALICHE ROAD
- GRAVEL ROAD
- FIRE HYDRANT ROAD
- SCHOOL ROAD
- NAMELESS ROAD

Root street names shall not contain any of the following:

- A. References to road type or compass direction, or any derivative thereof (e.g. County Road Ave., Northern Hills Blvd. etc.)
- B. Any word defined herein as a type suffix or directional (e.g. Cardinal Loop Blvd., West Gate Dr., North Loop Blvd., Trail of Lights Blvd.)
- C. Any titular abbreviation such as:
 - Doctor Dr.
 - Mister Mr.
 - General Gen.
 - Saint St.
- D. Street names consisting of compass directions (e.g. Northeast Drive, South Street, West Avenue, etc.)
- E. Streets named after actual persons, currently living or deceased.

6.2 INSTALLATION OF STREET SIGNS REQUIRED

The developer of a subdivision shall be required to install street name signs on new streets in accordance with Section 6. STREET NAMING AND SIGNS and Ordinance 0107, Section 107.200 STREET SIGNS. The proper installation of these signs is a part of the required construction standards of the Town of Horizon City, and will be inspected for approval prior to the release of the Construction Bond, other security or recording of plat with the County of El Paso.

6.3 INSTALLATION OF TRAFFIC CONTROL SIGNS

The developer of a subdivision shall be required to install any traffic control sign or device as approved in location by the Town of Horizon City Public Works Department prior to final acceptance of subdivision improvements. Regulatory signs for those on Arterial and Collector classified streets shall be a minimum of thirty (30”) inches in height.

6.4 STREET NAME SIGN STANDARDS

6.4.1 SIGN ASSEMBLY

Street name sign assemblies shall be post-mounted with two assemblies at each intersection of streets or roadways.

6.4.2 SIGN FACES

Sign blanks shall be double-faced so as to indicate street names on both sides. Sign blanks for intersections with Arterial and Major Collector classified streets shall be a minimum of nine (9”) inches in height and twenty-four (24”) inches to thirty-six (36”) inches in length. They shall be aluminum blanks with anodized finish and covered with green reflective sheeting with silver (white) copy and optional three-eighths inch (3/8”) silver (white) borders. Designations such as Street (St), Road (Rd), etc., shall be standard abbreviations as indicated below:

6.4.3 STREET NAMES*

Street Names shall contain suffixes according to the standard list below.

| <u>General Direction Of Street</u> | <u>Street Length less than 1,000 feet</u> | <u>Street Length greater than 1,000 feet</u> |
|----------------------------------------|-----------------------------------------------|--------------------------------------------------|
| North & South | Place | Street |
| East & West | Court | Avenue or Parkway |
| Diagonal | Way | Drive |
| Curving | Lane or Circle | Drive |

Arterial of one hundred twenty feet (120’) ROW or greater shall be suffixed with "Boulevard".

Standard abbreviations shall be used as follows.
Periods, hyphens, commas, and question mark are not to be used.

| | |
|--------------------|------------------|
| AVENUE.....AVE | NORTHWEST.....NW |
| BOULEVARD.....BLVD | PLACE.....PL |
| CIRCLE.....CIR | ROAD.....RD |
| COURT.....CT | SOUTH.....S |
| DRIVE.....DR | SOUTHEAST.....SE |
| EAST.....E | SOUTHWEST.....SW |
| LANE.....LN | STREET.....ST |
| NORTHEAST.....NE | WAY.....WAY |

6.4.4 COPY

Copy, for standard six (6”) inch signs, both letters and numbers, shall be four (4”) inch size series "C" reflective lettering. Block numbers, shall be placed in the upper lower right-hand corner of the sign face. Nine (9”) inch high signs

* Sub-section 6.4.3 was modified on September 10, 2002 by Amendment 009

shall have copy, both letters and numbers a minimum of six (6") inches with series "C" reflective lettering. Suffixes and block number for all signs shall be a minimum of two (2") inches with series "C" reflective lettering.

6.4.5 MOUNTING HARDWARE

The hardware shall consists of two (2) standard cast aluminum street name sign brackets, one post cap (lower) bracket for the more important roadway name and one crosspiece (upper) bracket for the less important roadway name. Bracket hardware shall lock securely to post and to sign blanks with Allen-type screws. Sign blanks shall be positioned when mounted so as to have their faces parallel to the roadway they name.

6.4.6 POSTS

Posts shall be two (2") inch galvanized steel pipe of .065 minimum gauge. Streets classifies as major collectors or above shall require breakaway posts. Streets classified below major collectors will use a two (2') foot sleeve with required wedge. Both base for breakaway posts and sleeves shall be set in concrete. Top of posts shall be nine (9') feet above the edge of curb or roadway surface if no curb is present.

6.4.7 PLACEMENT

The street name sign assembly should be placed on a post and located two (2') feet behind the curb on curbed roadways or six (6') feet to ten (10') feet beyond the edge of the pavement on non-curbed roadways. It should be placed as near as possible to the tangent point of the edge of the less important roadway with the radius of the curve at the intersection.

6.5 INSTALLATION OF SIGNS

Installation of street name and regulatory signs shall be installed and inspected for placement prior to subdivision acceptance.

6.6 POSTAL SERVICE

Every subdivision shall provide for postal delivery service. The subdivider shall coordinate with the United States Postal Service in determining the type of delivery service for the proposed subdivision. In all cases, the type and location of delivery service shall be subject to the approval of the United States Postal Service.

6.6.1 General provisions: Where postal service to lots within a subdivision is approved using neighborhood delivery and collection box units, the sub-divider shall provide for unit locations within dedicated right-of-way or easements. Subdivisions submitted as a preliminary plat shall indicate the proposed neighborhood delivery and collection box unit locations. The sub-divider shall place a note on the final and recording plat of the subdivision indicating that the lots will be served using neighborhood delivery and collection box unit locations shall be shown on the subdivision improvement plans.

- 6.6.1.1 Where the sidewalk is installed adjacent to and parallel with the property line, the neighborhood delivery and collection box unit shall be located within the street right-of-way between the curb and the sidewalk.
 - 6.6.1.2 Where the sidewalk is installed adjacent to and parallel with the curb line, the neighborhood delivery and collection box unit shall be located within a public easement on the property side of the sidewalk. The minimum area of the public easement shall provide access for the installation, use and maintenance of the neighborhood delivery and collection box units.
 - 6.6.1.3 The United States Postal Service shall furnish and install the neighborhood delivery and collection box units.
 - 6.6.1.4 Neighborhood delivery and collection box units shall be located by the United States Postal Service as necessary to accommodate street widening.
- 6.6.2 Location: Neighborhood delivery and collection box units shall be placed in a location that is convenient, accessible, safe and efficient to all lots in the subdivision. The following criteria shall be used to determine the location of neighborhood delivery and collection box units:
- 6.6.2.1 They shall be located in an area with a slope of no more than one-quarter (1/4") inch per foot.
 - 6.6.2.2 They shall be located in an area that is illuminated by street lighting.
 - 6.6.2.3 They shall be located on an arterial street.
- 6.6.3 Permitted uses: Use of the area on or above the neighborhood delivery and collection box unit concrete base shall be restricted to only those allowed by the United States Postal Service.

SECTION 7. SUBDIVISION INSPECTION AND RELEASE OF SECURITY

7.1 NOTICE OF START OF ROAD AND STREET CONSTRUCTION

The subdivider or his contractor shall notify the Town Engineer's Office of the time of start of construction of streets and drainage in the subdivision.

7.2 PRE-CONSTRUCTION MEETING

The subdivider or his contractor shall request and shall attend a pre-construction meeting at the office of the Town Engineer. Schedule of construction and frequency and type of field inspections and source and number of field tests shall be determined at this meeting. If on-site or local unprocessed base material is proposed, and/or if "density control" is specified, a representative of the subdivider's and/or contractor's field control lab shall also attend the pre-construction meeting.

7.3 FIELD INSPECTIONS AND FIELD CONTROL TEST

Field inspections and field control tests shall include but no be limited to the following:

- 7.3.1** Utility installation backfill and density tests as required;
- 7.3.2** Bedding and backfill of culverts and storms drains and density tests as required;
- 7.3.3** Pre-construction inspection of any on-site or local sources of base material: If directed by the Town Engineer or his agent, the testing laboratory shall make site investigations to determine that quantity of material expected to be produced from the sources meets gradation and Atterberg specifications;
- 7.3.4** Subgrade preparation including fills, cuts and, ditch excavation. Density tests are required in fills and other areas as determined by the Town Engineer or his agent. Approval is required of subgrade preparation prior to base placement;
- 7.3.5** Placement and compaction of base material. When "Density Control" is required, density tests shall be performed at a minimum of every five (5) stations of the final lift and at least (5) additional locations per mile of road of each lift place. Required density tests shall be taken by an approved testing laboratory with copies furnished to the Town Engineer prior to paving. The contractor shall provide at least five (5) days notice to the Town Engineer for approval of base to allow time for any Town tests of density and/or thickness. Approval can be obtained in twenty-four (24) hours provided the contractor has notified the Town Engineer at start of base placement and has provided his schedule for completion. Deficiencies found shall be immediately corrected before any pavement is placed;
- 7.3.6** Pavements of roads and streets. The contractor shall notify the Town Engineer at least twenty-four (24) hours prior to start of paving after bases are approved. He shall provide any required data on pavement mixes, tests to be performed, etc. at least five (5) days prior to start of paving. Pavement placement and consolidation may be inspected at the option of the Town Engineer.

7.4 FINAL INSPECTION

The contractor or subdivider shall request final inspection in writing. The Town Engineer shall make the requested inspection no later than five (5) days following the receipt of the written request. A written "punch list" listing all deficiencies noted on the final inspection and uncorrected deficiencies from previous field inspections, shall be provided to the contractor within five (5) days following the final inspection, and if requested, also provided to the developer.

7.5 PARTIAL COMPLETION

Unless prior arrangement has been made with the Town Engineer and approved by the Town Council no partial completion will be inspected or approved. Partial completions shall be allowed only after consideration of access, drainage, and other matters related to the well-being and safety of future residents. The Town Engineer shall make the requested inspection no later than ten (10) days following the receipt of the written request.

7.6 CORRECTION OF DEFECTS

Defects noted during final inspection shall be corrected with in thirty (30) days. Written request for reinspection for correction of defects will be required unless specifically waived by the Town Engineer.

7.7 FULL COMPLETION REQUIRED FOR RELEASE

Release from the full obligation of Construction Bond or other Construction Security except as noted in 7.9 below, shall not be granted until the entire subdivision has been inspected and found acceptable by the Town Engineer and has been approved for release by the Town Council. The Town shall have full rights to require maintenance under the terms of the Maintenance Bond obligation for any portion of streets, or drainage facilities accepted under partial completion, but the period of the Maintenance Bond obligation shall not start until the Town Council has authorized full release of construction obligation for work completed.

7.8 RELEASE STATEMENT

The Town Engineer shall make written notice to the Town Council of satisfactory construction and satisfactory maintenance. Provided that the Town Council finds all conditions of release to have been satisfactorily met, the Town Council shall authorize acceptance and shall cause to be issued a release statement, signed by the Mayor releasing the Owner and Surety from further obligation under the construction bond.

7.9 PARTIAL/PERIODIC REDUCTION OF CONSTRUCTION SECURITY

Where estimated costs for road construction exceed \$50,000, partial or periodic reductions of construction security may be allowed. Partial or periodic reduction cannot exceed ninety percent (90%) of the security and will be signed by the Mayor as authorized by the Town Council. Requests for periodic reductions must be accompanied by Lender's certified statements of amounts paid for completed work, professional engineer certification of quantities of work completed, and contractor's receipt of payment for work completed.

SECTION 8. CONSTRUCTION BOND AND MAINTENANCE BOND OR OTHER APPROVED SECURITY

8.1 CONSTRUCTION AND MAINTENANCE BOND.*

8.1.1 CONSTRUCTION BOND

* Sub-sections 8.1.7, 8.1.10, and 8.1.11 were modified on September 10, 2002, by Amendment No. 009

In order to assure that the streets and required drainage structures are constructed in a timely manner and in accordance with the preceding specifications, the owner of the subdivision shall file a Construction Bond or other approved alternative financial guarantee.

8.1.2 MAINTENANCE BOND

In order to guarantee that streets and other structures are maintained to the satisfaction of the Town Engineer, in good condition for one (1) year following approval of construction, the owner shall file a Maintenance Bond executed by a Surety company authorized to do business on this State, and made payable to the Mayor, Town of Horizon City, Texas, or his successors in office, in the amount of 10% of the maximum amount specified in paragraph 8.1.1.

8.1.3 COMBINED BOND

The owner of the subdivision may, at his option, file a single bond instrument or financial guarantee, in lieu of separate bond instruments, as indicated above. The amount, conditions, collection, enforceability, recovery, and release of a Combined Bond shall be the same as if separate instruments were provided.

8.1.4 AMOUNT OF BOND

The amount of the bond or the bonds shall not exceed the estimated costs of construction of the road or street in the subdivision, or other maximum amount subsequently established by the Texas State Legislature.

8.1.5 COMPUTING BOND AMOUNT

Unit costs for normal road and drainage construction will be based on current costs for such work developed by the Town Engineer from Town, County and State bid results and from information provided by local suppliers. Quantities will be as shown on the plans provided or developed from these plans required. Costs of large or unusual structures, such as bridges, will be based on current costs for similar structures in the area.

8.1.6 FORM OF BONDS AND SECURITIES

The form if Bonds or financial guarantees to be filed shall be as shown in the attached Exhibits.

8.1.7 WHEN REQUIRED

Bonds and financial guarantees shall be filed with the Town Council prior to the request of a subdivision recording plat for approval if subdivision improvements have not been completed and accepted by the Town Engineer and the Director of Public Works.

8.1.8 CONDITION AND PERIOD OF CONSTRUCTION BOND

The condition of the Construction Bond shall be such that the subdivider of the subdivision shall begin construction of streets and other additions shown on the subdivision plat as soon as possible after date of recording of the plat in the Town Clerk's Office or as directed by the Town Council and shall proceed and complete such construction in accordance with the foregoing specifications within a period agreed on between the owner and the Town Engineer, not to exceed two (2) years with 1 year extensions by the Town Council and bond size review. The Construction Bond shall remain in full force and in effect until all the streets in the subdivision have been completed to the satisfaction of the Town Engineer or his agent and the obligation has been released by official action of the Town Council.

8.1.9 COLLECTION OF CONSTRUCTION BOND

In the event any or all of the streets as constructed by the subdivider fail to meet the requirements of the foregoing specifications and the said owners fails or refuses to correct the defects after written notice by the Town Engineer, the unfinished improvements shall be completed at the cost and expense of the subdivider as provided.

8.1.10 CONDITION OF MAINTENANCE BOND

The condition of the Maintenance Bond shall be such that the sub-divider shall guarantee to maintain, to the satisfaction of the Town Engineer, all of the streets and drainage-ways as shown on an approved subdivision plat which have been constructed to specification. Construction Security shall be released by official action of the Town Council provided that the facilities are in a good state of repair and have met all Town requirements. In lieu of a Maintenance Bond, the Sub-divider may provide a written guarantee for maintenance for one (1) year from the date of Improvements acceptance and name the Town as the primary (or secondary) benefactor of a guarantee provided by the construction contractor.

8.1.11 PERIOD OF MAINTENANCE BOND

The Maintenance Bond by its terms shall provide that liability there under begin on any or all of the streets in the subdivision and shall remain in full force and effect for the period of one (1) year after the date of the officials release of the Construction Security on each street or portion thereof, by the Town Council, or for a period of one (1) year from that time in which the Town of Horizon City has officially accepted the subdivision and the plat has been recorded.

8.1.12 PERIODIC INSPECTION

Periodic inspection of all of the streets for which Maintenance Security is held will be made by the Town Engineer during the period of liability covered by the Maintenance Bond.

8.1.13 ENFORCEABILITY OF BONDS

Each of said bonds shall provide that should the same be unenforceable as a statutory bond, the subdivider shall be bound by their contract as a common law obligation.

8.1.14 REPEATED RECOVERY

Recovery on said Bonds shall not be limited or exhausted by one or more recoveries less than the total amount of such bonds.

8.2 IRREVOCABLE LETTER OF CREDIT (in lieu of bond)

8.2.1 IRREVOCABLE LETTER OF CREDIT FOR BOND

The Town Council may accept an Irrevocable Letter of Credit in lieu of bonds for the purpose of insuring a subdivider's promise to construct and maintain the roads and drainage facilities in a subdivision in the Town of Horizon City.

8.2.2 AMOUNT

If an Irrevocable Letter of Credit is accepted in lieu of a Bond, the amount of the security required to be posted shall be equal to the estimated cost of construction of the road and drainage facilities required in the subdivision.

8.2.3 FORMS

The form of an Irrevocable Letter of Credit shall be as shown in Exhibit A attached or such form as is acceptable to the Town Attorney.

8.2.4 CRITERIA

The Irrevocable Letter of Credit shall meet the requirements of Section 9.

8.2.5 THE CONDITIONS OF A LETTER OF CREDIT

The general conditions of the Irrevocable Letter of Credit are the same as those stated for Construction and for Maintenance Bonds.

8.2.6 LETTER OF CREDIT

Two (2) years are allowed for construction of facilities before securities are eligible for collection. The maintenance period is one (1) year following approval of construction with notice of release of construction security signed by the Mayor. The construction period can be extended past the normal period by approval of the Town Council provided the extended agreement includes increases in the amount to cover cost increases since the date of the original agreement.

8.2.7 COLLECTION OF SECURITIES

Request for collection of securities must be signed by the Mayor. A ten (10) day notice by registered mail, return receipt requested, to the lender and/or subdivider is required before proceeding to request collection of funds to complete construction and/or maintenance.

8.2.8 REPEAT RECOVERY

The recovery on the Irrevocable Letter of Credit shall not be limited or exhausted by one or more recoveries less than the total amount of Letter of Credit.

SECTION 9. FINANCIAL GUARANTEES FOR IMPROVEMENTS

9.1 APPLICABILITY

Where these Regulations require subdivisions to execute an agreement with the Town secured by a bond or other alternative financial guarantee, said bonds and financial guarantees shall meet the following minimum requirements:

9.2 BONDS

Bonds shall meet the following requirements:

9.2.1 The bond or financial guarantee shall be payable to the Mayor of Horizon City, Texas, in the official capacity, or the Mayor's successor in office.

9.2.2 The bond or financial guarantee shall be in an amount determined by the Town Council to be adequate to ensure proper construction or installation of the roads and streets, public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies. In no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certified the plat.

9.2.3 The bond shall be executed with sureties as may be approved by the Town Council. The Town shall establish criteria for acceptability of the surety companies issuing bonds, including but not limited to:

9.2.3.1 Registration with the Secretary of State and authorization to do business in Texas;

9.2.3.2 Authorization to issue bonds in the amount required by the Town Council; and

9.2.3.3 Rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and

must be an approved surety company listed in the current United States Department of Treasury.

- 9.2.4** The bonds shall be conditioned upon construction or installation of roads, streets, and water and wastewater facilities meeting the criteria established by these Regulations and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any reasonable extension of time granted by the Town Council.

9.3 LETTER OF CREDIT

A Letter of Credit shall meet the following requirements:

- 9.3.1** Any letter of credit submitted as a financial guarantee for combined amounts greater than \$10,000 and less than \$250,00 must be from financial institutions which meet the following qualification:

9.3.1.1 Bank qualifications;

9.3.1.1.1 Must be federally insured;

9.3.1.1.2 Sheshunoff rating must be ten or better and primary capital must be at least six percent (6%) of total assets; and

9.3.1.1.3 Total assets must be at least twenty-five million dollars.

9.3.1.2 Savings and loan association qualifications:

9.3.1.2.1 Must be federally insured;

9.3.1.2.2 Tangible capital must be at least one and a half percent (1.5%) of total assets and total assets must be greater than twenty-five million dollars, or tangible capital must be at least three percent (3.0%) of total assets if total assets are less than twenty-five million dollars; and

9.3.1.2.3 Sheshunoff rating must be thirty or better.

9.3.1.3 Other financial institutions qualifications:

9.3.1.3.1 The Letter of Credit must be 110% collateralized by an investment instrument that would meet the qualifications for a Town investment; and

9.3.1.3.2 The investment instrument must be registered in the Town's name and the Town must receive safekeeping receipts for all collateral before the Letter of Credit is accepted.

- 9.3.2** Any Letter of Credit submitted as a financial guarantee for combined amounts equal to or greater than \$250,000 must be from financial institutions which meet the following qualifications:

9.3.2.1 Bank qualification,

- 9.3.2.1.1 Must be federally insured;
- 9.3.2.1.2 Sheshunoff rating must be thirty or better and primary capital must be at least seven percent (7.0%) of total assets;
- 9.3.2.1.3 Total assets must be at least seventy-five million dollars.

9.3.2.2 Saving and loan association qualifications:

- 9.3.2.2.1 Must be federally insured
- 9.3.2.2.2 Tangible capital must be at least three percent (3.0%) of total assets and total assets must be greater than seventy five millions dollars, or tangible capital must be at least five percent (5.0%) of total assets if total assets are less than seventy-five million dollars; and
- 9.3.2.2.3 Sheshunoff rating must be thirty or better.

9.3.2.3 Other financial institutions qualifications:

- 9.3.2.3.1 The Letter of Credit must be 110% collateralized by an investment that would meet the qualifications for a Town investment; and
- 9.3.2.3.2 The investment instrument must be registered in the Town's name and the Town must receive safekeeping receipts for all collateral before the Letter of Credit is accepted.

9.3.3 The letter of Credit shall install list as sole beneficiary the Mayor of the Town, in his official capacity, or the Mayor's successor in office, and must be approved by the Council of the Town. The form of the Letter of Credit shall be modeled after the form in Exhibit A to these Regulations.

9.3.4 The Letter of Credit shall be conditioned upon installation or construction of roads, streets, and water and wastewater facilities meeting the criteria established by these Regulations and upon construction of facilities within the stated on the plat, or on the documents attached to the plat for the subdivision, or within any reasonable extension of time granted by the Town of Council.

9.4 **FINANCIAL GUARANTEE**

The Town will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities, and roads in the subdivision.

9.5 **TIME EXTENSIONS FRO PROVIDING FACILITIES**

9.5.1 **REASONABLENESS**

The Town Council may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if the Town finds the extension is reasonable and not contrary to the public interest.

9.5.2 TIMELINESS

If the facilities are fully operable the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.

9.5.3 UNREASONABLENESS

An Extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Section 2 of these Regulations.

SECTION 10. CANCELLATIONS

10.1 APPLICABILITY

A person owning real property in the Town of Horizon City located inside its municipality and the extra-territorial jurisdiction of municipalities, which has been subdivided into lots or blocks or into small subdivisions, may apply to the Town Council for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to re-establish the property as acreage tracts as it existed before the subdivision.

10.2 APPLICATION REQUIRED

A fee will be charged to process cancellations actions. This fee will be in an amount specified in the Town Subdivision Regulations Fee Schedule and will be paid in full prior to submitting a request to place the cancellation item on the Agenda to be considered by the Town Council.

10.2.1 An application form will be required to initiate a request for any cancellation. This form must be filled out and signed by the person(s) requesting the cancellation, or their agent. Requirements must be met prior to consideration by the Town Council.

10.2.2 The application shall be presented to the Town Engineer for review and recommendation to the Town Council.

10.3 CONTENTS OF APPLICATION

The person making a request for cancellation shall submit a letter to the Town Engineering Office. The letter shall state the reason for the request.

10.3.1 The following documents must be included with the letter:

10.3.1.1 Approval or concurrence with the request by all adjacent and abutting property owners.

10.3.1.2 Proof that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision or proof that the purchasers agree to the cancellation.

10.3.1.3 Letter (or standard form) from all utility companies (electric, telephone, cable, water and wastewater, gas, etc.) serving the area stating they have no need for any rights-of-way or easements requested for cancellation or a sketch and field notes on any easements to remain.

10.3.1.4 If the right-of-way or easement to be cancelled was dedicated by a plat approved by an incorporated municipality under their extra-territorial jurisdiction authority, then a letter concurring with the cancellation request must be included.

10.3.2 The request for cancellation will be placed on the agenda for consideration by the Town Council after appropriate public notice has been given.

10.3.3 On application for cancellation for a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of seventy five percent (75%) of the property included in the subdivision, phase, or identifiable part, the Town Council 212, by order, shall authorize the cancellation in the manner and after notice a hearing as provided by Chapter 2 of the Local Government Code. However, if the owners of at least ten percent (10%) of the property affected by the proposed cancellation file written objections to the cancellation to the Council the grant of an order of cancellation is at the discretion of the court.

10.3.4 Assessment of Taxes. If delinquent taxes are owed on the subdivision tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this section, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract has not been subdivided. For the purpose of assessing the tract for a preceding year, the county tax assessor-collector shall back assess the tract on an acreage basis.

10.4 ENJOINING CANCELLATION PROCEEDINGS

To maintain an action to enjoin in the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:

10.4.1 Abuts directly on the part of the roadway or easement to be cancelled or closed; or

10.4.2 Is connected by the part of the roadway or easement to be cancelled or closed, by the most direct feasible route, to:

10.4.2.1 The nearest remaining public highway, county road, or access road to the public highway or county road; or

10.4.2.2 Any uncanceled common amenity of the subdivision.

10.5 RECOVERY OF DAMAGES

A person who appears before the Town Council to protest cancellation of all part of a subdivision may maintain an action for the damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the cancelled subdivision or part of the subdivision. The person must bring the action within one year after the date of the entry of the Town Council order granting the cancellation.

10.6 DRAINAGE AND PRIVATE ACCESS EASEMENT

10.6.1 The request for cancellation will be investigated and a recommendation made by the Town Engineer's Office prior to the public hearing.

10.6.2 The request for cancellation will be placed on the agenda for consideration by the Town Council after appropriate public notice has been given.

10.6.3 Cancellation requests for private access easements must be negotiated between the grantee and grantor of such easements.

10.6.4 Cancellation requests for private streets or for reserves must be made to the property owner.

10.7 BASIC FEE

The fee for initiating a cancellation request is to cover the Town cost to do the inspection, research and preparation of court documents and is not to be considered a fee for the approval of the cancellation. The fee shall be required whether or not the vacation is approved by the Town of Council. The fee amount us shown in the Town Fee Schedule.

SECTION 11. CONFLICT OF INTEREST

11.1 DISCLOSURE REQUIRED

Any member of the Horizon City Town Council who has a substantial interest in a subdivided tract shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extend of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the Town Clerk.

11.2 SUBSTANTIAL INTEREST

For the purposes of this section a person with substantial interest is one who;

11.2.1 Has an equitable or legal ownership interest in the tract with a fair market value of two thousand five hundred dollars (\$2,500) or more.

11.2.2 Acts as developer of the tract;

11.2.3 Owns ten percent (10%) or more of the voting stock or shares of or owns either ten percent (10%) or more or \$5,000 or more of the fair market value of a business entity that:

11.2.3.1 Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more; or

11.2.3.2 Acts as developer of the tract; or

11.2.4 Receives in a calendar year funds from a business entity described by subdivision (3) that exceed ten percent (10%) of the person's gross income for the previous year.

11.3 SUBSTANTIAL INTEREST BY RELATIONSHIP

A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity to another person who, under subsection 11.2, has a substantial interest in the tract.

11.4 TRACT DEFINED

For the purposes of this section; a tract includes the subdivided tract as a whole, not an individual lot.

11.5 ACTIONS VOIDABLE

The finding by a court of a violation of this section of these Regulations does not render voidable an action of the Town Council without the vote of the member who violated this section.

SECTION 12. ENFORCEMENT

12.1 OVERSIGHT

The owner, by submitting a plat, acknowledges the authority of the Town and State agencies to lawfully enter and inspect property for purposes of execution of their statutory duties. Such inspection will not release the owner from any obligation to comply with the requirements of these Regulations. Any such inspection or review will not subject the Town or State of Texas to any action for damages.

12.2 GENERAL ENFORCEMENT AUTHORITY TO TOWN

12.2.1 LEGAL ACTION

At the request of the Town Council the Town Attorney or other prosecuting attorney may file an action in a court of competent jurisdiction to:

12.2.1.1 Enjoin the violation or threatened violation of a requirement established by or adopted by the Town Council under Chapter 212 of the Local Government Code; or

12.2.1.2 Recover damages in an amount adequate for the Town to undertake any construction or other activity to bring about compliance with a requirement established by or adopted by the Town Council under Chapter 212.

12.2.2 OFFENSE

A person commits an offense if the person knowingly or intentionally violates a requirement established by or adopted by the Town of Council under Chapter 212. An offense under this section is a Class C misdemeanor.

12.3 ENFORCEMENT OF SUBDIVISION RULES BY TOWN

12.3.1 CIVIL PENALTY

A person who violates a rule adopted by the Town pursuant to Section 16.343 of the Water Code is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each violation and for each day of a continuing violation but not in excess of \$5,000 per day.

12.3.2 CRIMINAL PENALTY-WATER CODE

A person commits an offense if the person knowingly or intentionally violates a rules adopted pursuant to Section 16.343 of the Water Code by a municipality. An offense under this section is a Class B misdemeanor.

12.3.3 CRIMINAL PENALTY-WATER-CODE

A member of the Town Council commits an offense if the member violates Section 11.1 of these Regulations. An offense under Section 11.1 is a Class A misdemeanor.

12.4 INJUNCTION

In addition to other remedies, the attorney general, the county or Town attorney of the Town in which the violation occurred, or other local officials are authorized to apply to the district court for and the court in its discretion may grant the state or political subdivision without bond or other undertaking, any injunction that the facts may warrant including temporary injunctions after notice and hearing, and permanent injunctions enjoining a violation of the rules.

12.5 ENFORCEMENT OF MODEL RULES BY ATTORNEY GENERAL

In addition to enforcement by a political subdivision, the attorney general may bring suit to enforce a rule adopted under Section 16.350 of the Water Code, to recover the penalty provided by Section 16.352 of the Water Code, to obtain injunctive relief to prevent the violation or continued violation of a political subdivision's rules, or to enforce the rules, recover the criminal penalty, and obtain injunctive relief.

12.6 ENFORCEMENT OF ENGINEERING CERTIFICATE

12.6.1 ATTORNEY GENERAL ACTION

The attorney general may take any action necessary to enforce a requirement imposed by or under Section 232.0035 or 232.0036 of the Local Government Code, or to ensure that the water and sewer service facilities are constructed or installed to service a subdivision in compliance with the model rules adopted under Section 16.343, Water Code.

12.6.2 OFFENSE; CIVIL PENALTY

A person who violates Section 232.0035 or 232.0036 of the Local Government Code, or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on the plat or on the document attached to the plat, as required by Section 232.0035 is subject to civil penalty of not less than \$500 nor more than \$1,000 plus court cost and attorney's fees.

12.6.3 OFFENSE; CRIMINAL PENALTY

An owner of a tract of land commits an offense if the owner knowingly or intentionally violates a requirement imposed or intentionally violates a requirement imposed by or under Section 232.0035 or 232.0036 of the Local Government Code or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on a plat or on a document attached to a plat, as required by Section 232.0035. An offense under this subsection is a Class B misdemeanor.

12.6.4 DEFINITION

A reference in this section to an "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

12.7 PENALTIES

12.7.1 TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS.

Any owner or agent of the owner, of any land located within the planning and platting jurisdiction of the Town who leases, transfers, sells, agrees to sell, or negotiates to sell land by reference to or exhibition of a plat of such land before being duly approved by the Town Council and duly recorded in the office of the El Paso County Courthouse shall upon conviction be subject to a fine of

two hundred dollars (\$200.00) per offense. Each and every lot or portion thereof so leased, transferred, sold, agreed to be sold, or negotiated to be sold shall be prosecuted and treated as a separate offense. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

12.7.2. IMPROPER RECORDING.

Any person who records with the El Paso County Courthouse any plat in violation of these regulations shall upon conviction be subject to a fine not exceeding the maximum according to State Law.

12.7.3 APPEALS

Any person aggrieved with any determination of the Town Council acting under these regulations may file and appeal to the appropriate District Court of the State of Texas. The District Court may overrule or modify any ruling of the Town Council and make such findings as are not consistent with the provisions of these Regulations. When an appeal is filed with the District Court notice thereof shall be filed with the Town Clerk.

12.7.4 AMENDMENT PROCEDURE

The Council may, from time to time, amend or modify these Regulations after public hearing, due notice of which shall be given as required by law.

12.7.5 PUBLIC RECORDS

The Town Clerk shall keep public records of finding, decision, and recommendations concerning all subdivision plats filed for review, including such actions as may be taken by the Council through appeals or amendments to these Regulations.

12.7.6 REPEAL

All ordinances and resolutions and all parts thereof which are in conflict with this ordinance are hereby repealed to the extent that they conflict with this ordinance.

12.7.7 SEPARABILITY OF PROVISIONS

If any section, subsection, sentence, clause or phrase of these Regulations is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of these Regulations, it being the intent of the Council to enact each section, subsection, sentence, clause or phrase of these Regulations separately and independently of each other section, subsection, sentence, clause or phrase.

12.7.8 ORDINANCES

Any section, subsection, sentence, clause or phrase of these Regulations conflict with Ordinance No. 35 and Ordinance No. 39 of the Town of Horizon

City, Texas, which have previously been approved and adopted by City Council then the provisions of this Ordinance supersede those provisions contained in Ordinances No. 35 and 39 and those conflicting provisions in those said ordinances are hereby repealed. Otherwise, Ordinances No. 35 and 39 are herein adopted into this Ordinance and incorporated herein for all purposes and enforceable by the Town of Horizon City, Texas.

SUBDIVISION CONSTRUCTION AGREEMENT

1. **Parties.** The parties to this Subdivision Construction Agreement (the "Agreement") are (individually and collectively, the "Subdivider") and the Town of Horizon City, Texas, (the "Town").

2. **Effective Date.** This Agreement is effective on the date the Town approves the final plat for the subdivision described in Paragraph 3 of this Agreement by the Town Council approval of the plat in accordance with Town Regulations (the "Effective Date").

Recitals

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the subdivision, as shown in the Town's File Number (the "Subdivision") and more particularly described by the mete and bounds description attached and incorporated into this Agreement as Exhibit A (the "Property"); and

4. Subdivider seeks authorization from the Town to subdivide the Property in accordance with the requirements imposed by Texas statute and the Town Rules, Regulations, and other requirements; and

5. Town Regulations require the completion of various improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effect of substandard subdivisions; and

6. The purpose of this Agreement is to protect the Town from the expense of completing subdivision improvement required to be installed by the Subdivider; and

7. This Agreement is authorized by and consistent with state law and the Town Rules, Regulations, and other requirements governing development of a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

Subdivider's Obligations

8. **Improvements.** The Subdivider agrees to construct and install, at Subdivider's expense, all subdivision improvements required to comply with Town orders, regulations, and policies governing subdivision approval, specifically including without limitation those improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, the Improvements, any of which is an "Improvement"). All Improvements shall be constructed in conformity to the Town requirements, procedures, and specifications, pursuant to construction plans, permits, and specifications approved by the Town prior to commencement of construction, and subject to inspection, certification, and acceptance by the Town.

9. **Completion.** Unless a different time period is specified for a particular Improvement in Exhibit B, construction of all Improvements shall be completed no later than (2) years after the Effective Date (the "Completion Date"); provided, however, that if the Subdivider or the Issuer delivers to the Town no later than

the Completion Date a substitute Letter of Credit satisfying the criteria established in Paragraph 11 and which has an expiration date no earlier than one year from the Completion Date, then the Completion Date shall be extended to the expiration date of that substitute Letter of Credit or any subsequent substitute Letter of Credit provided in accordance with this Paragraph. Upon completion of each of the Improvements, the Subdivider agrees to provide to the Town a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

10. Warranty. The Subdivider warrants the Improvements constructed by Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees will be free from defects for a period of one (1) year from the date the Town accepts the dedication of a completed Improvement or group of Improvements (the "Warranty Period"), as such Improvement or group of Improvements is separately identified and listed on Exhibit B, except the Subdivider does not warrant the Improvements for defects caused by events outside the control of the Subdivider or the Subdivider's agents, contractors, employees, tenants, or licensees. The Subdivider agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the Town acceptance of dedication of any of the Improvements, the Town may require the Subdivider to post a maintenance bond or other financial security acceptable to the Town to secure the warranty established by this Agreement. If the Improvements have been completed but not accepted, and neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider or the Issuer the Town shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the Town.

11. Security. To secure the performance of Subdivider's obligations under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the Town, a cash deposit to be held by the Town in escrow, or an irrevocable letter of credit in the amount of _____ Dollars (\$_____) (the "Stated Amount"), which amount is the estimated total cost of constructing each of the Improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to this Agreement, it shall be in a standard form acceptable to the Town, shall have an expiration date no earlier than one year from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the Town or County financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the "Issuer"). During the term of this Agreement and subject to the terms of Paragraph 22 of this Agreement, the Town may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of Subdivider's obligations under this Agreement. A letter of credit satisfying the criteria of this Paragraph (and any substitute or confirming letter of credit) is referenced to in this Agreement as to the "Letter of Credit".

12. Reduction In Letter of Credit. After the acceptance of any Improvement, the amount which the Town is entitled to draw on the Letter of Credit shall be reduced by an amount equal to ninety percent (90%) of the Quoted cost of the accepted Improvement, as shown on Exhibit B. Upon completion of an Improvement, at the written request of subdivider or Issuer, and if neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, the Town shall complete, execute, and deliver to the Issuer a reduction letter verifying the acceptance of the Improvement and documenting that the Stated Amount has been reduced by stating the balance of the Stated Amount remaining after the reduction required by the first sentence of this Paragraph. No later than sixty (60) days after its receipt of a written request to reduce the Stated Amount submitted by the Subdivider or the Issuer, the Town shall determine the Estimated Remaining Cost and shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to the Estimated Remaining Cost if the Town determines the Stated Amount exceeds the Estimated Remaining Cost. Not with standing the preceding sentence, the Town shall not be required to authorize reductions in the Stated Amount more frequently than every ninety (90) days. As used in this Paragraph, "Estimated Remaining Cost" means the amount the Town estimates to be the cost of completing all Improvements incomplete as of the time of such estimate.

Town Obligations

13. Inspection and Certificate. The Town agrees to inspect Improvements during and at the time completion of construction and, if completed in accordance with the standards and specifications for such Improvements, to certify the Improvements as being in compliance with County standards and specifications. The inspections and certifications will be conducted in accordance with standard Town policies and requirements. The Subdivider grants the Town, its agents, employees, officers, and contractors and easement and license to enter the Property to perform such inspections as it deems appropriate.

14. Notice of Defect. The Town will provide timely notice to the Subdivider whenever inspection reveals that an Improvement is not constructed or completed in accordance with the standards and specifications for health or safety, and the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than five (5) days and the Town may declare a default under this Agreement if not satisfied that the defect is cured after the cure period. Any cure period should be reasonable in relation to the nature of the default.

15. Use of Proceeds. The Town will disburse funds drawn under the Letter of Credit for the purposes of completing the Improvements in conformance with the Town requirements and specifications for the Improvements, or to correct defects in or failures of the improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on the funds. All funds obtained by the Town pursuant to one or more draws under the Letter of Credit shall be maintained by the Town in an interest bearing account or accounts until such funds, together with accrued interest there on (the "Escrowed Funds"), are disbursed by the Town. The Town may disperse all or portions of the Escrowed Funds as Improvements are completed and accepted by the Town or in accordance with the terms of a written construction contract between the Town and a third party for the construction of Improvements. Escrowed Funds not used or held by the Town for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with interest accrued thereon, shall be paid by the Town to the Issuer of the Letter of Credit no later than sixty (60) days following the Town's acceptance of the Improvement or its decision not to complete the Improvement using Escrowed Funds, whichever date is earlier.

16. Return of Excess Escrowed Funds. No later than sixty (60) days after its receipt of a written request from the Subdivider or the Issuer to return Excess Escrowed Funds to the Issuer, the Town shall disburse to the Issuer from the Escrowed Funds all Excess Escrowed Funds. For purposes of this Paragraph, "Excess Escrowed Funds" means the amount of Escrowed Funds exceeding one hundred ten percent (110%) of the estimated cost of constructing Improvements the Town intends to construct but which have not been accepted, as such cost is shown on Exhibit B. Notwithstanding the first sentence in this Paragraph, the County shall not be required to disburse Excess Escrowed Funds more frequently than every ninety (90) days.

17. Cost Participation by Town. If the Town and Subdivider agree the Town will participate in the expense of installing any of the Improvements, the respective benefits and obligations of the parties shall be governed by the terms of a Community Facilities Construction Agreement executed by the parties thereto, and the terms of that Agreement shall control to the extent of any inconsistency with this Agreement.

18. Conditions of Draw Security. The Town may draw upon any financial guarantee posted in accordance with Paragraph 11 upon the occurrence of one or more of the following events:

- a. Subdivider's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement;
- b. Subdivider's failure to renew or replace the Letter of Credit at least forty five (45) days prior to the expiration date of the Letter of Credit;
- c. Subdivider's failure to replace or confirm the Letter of Credit if the Issuer fails to maintain the minimum rating acceptable to the Town in accordance with Paragraph 11 of this Agreement; or
- d. Issuer's acquisition of the Property or a portion of the Property, through foreclosure or an assignment or conveyance in lieu of foreclosure.

The Town shall provide written notice of the occurrence of one or more of the above events to the Subdivider, with a copy provided to the Issuer. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraph (a), the Town shall provide notice to the Subdivider and the Issuer of the specific default and the notice shall include a statement that the Town intends to perform some or all of Subdivider's obligations under Paragraph 8 for specified Improvements if the failure is not cured. The notice with respect to a default under subparagraph (a) shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit, unless, in the reasonable opinion of the Town, the failure creates an immediate and substantial harm to the public health or safety, in which case the notice shall state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before presentation of a draft on the Letter of Credit. In the event of a draw based on subparagraph (a), the Town shall be entitled to draw in the amount it considers necessary to perform Subdivider's obligation under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement it states its intent to construct or complete in accordance with the standards and specifications for such improvement. The Subdivider hereby grants to the Town, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such Improvements. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by a subparagraph (b), (c), or (d), the notice shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit. In lieu of honoring a draft based on an event described in subparagraph (b) or (c), the Issuer of the Subdivider may deliver to the Town a substitute Letter of Credit if the event is described by subparagraph (b) or a described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring a draft based on an event described in subparagraph (d), the Issuer may deliver to the Town a substitute or confirming Letter of Credit.

19. Procedures for Drawing on the Letter of Credit. The Town may draw upon the Letter of Credit in accordance with paragraph 18 by submitting a draft to the Issuer in compliance with the terms of the Letter of Credit governing such draft. The Letter of Credit must be surrendered upon presentation of any draft which exhausts the Stated Amount of such Letter of Credit. The Town may not draft under a Letter of Credit unless it has substantially complied with all its obligations to the Issuer under this Agreement and his property completed and executed the draft in strict accordance with the terms of the Letter of Credit.

20. Measure of Damages. The measure of damages for breach of this Agreement by the Subdivider is the reasonable cost of completing the Improvements in conformance with the Town requirements, procedures, and specifications. For improvements upon which construction has not begun, the estimated cost of the improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of the Letter of Credit establishes the maximum amount of the Subdivider's liability.

21. Remedies. The remedies available to the Town, the Subdivider, and Issuer under this Agreement and the laws of Texas are cumulative in nature.

22. Provisions for the Benefit of issuer. The provisions of Paragraphs of Paragraphs **9, 10, 11, 12, 15, 16, 18, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32,** and **36** of this Agreement for the benefit of the issuer may not be modified, released, diminished, or impaired by the parties without the prior written consent of the Issuer.

23. Third Party Rights. No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the Town (including without limitation a trustee in bankruptcy) have any interest in or claim to funds drawn on the Letter of Credit and held in escrow by the Town in accordance with this Agreement. Notwithstanding the preceding sentence, the Issuer shall have a right of action to enforce any provision of this Agreement where the Issuer is specifically named as a beneficiary of such provision pursuant to Paragraph 22.

24. Indemnification. The Subdivider hereby expressly agrees to indemnify and hold the Town harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from any breach on the part of the Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the Town if the Town is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act of negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider. The Subdivider is not an employee or agent of the Town. Notwithstanding anything to the contrary contained in this Agreement, the Subdivider does not agree to indemnify and hold the Town harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the Town, its agents, contractors, employees, tenants, or licensees.

25. No Waiver. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute continuing waiver unless expressly provided for by a written amendment to this Agreement, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the Town, the Subdivider, or the Issuer, their heirs, successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver of estoppels of the right to do so.

26. Attorney's Fees. Should either party or the Issuer, to the extend Issuer is named as specific beneficiary, be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in their entirety.

27. Assignability. The benefits and burdens of this Agreement are personal obligations of the Subdivider and also re binding on the heirs, successors, and assigns of the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the express written approval of the Town. The Town's written approval may not be withheld if the Subdivider's assignee explicitly assumes all obligations of the Subdivider under this Agreement and has posted the required security. The Town agrees to release or reduce, as appropriate, the Letter of Credit provided by the Subdivider if it accepts substitute security for all or any portion of the Improvements. The Town in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Subdivider and the Issuer.

28. Expiration. This Agreement shall terminate upon the expiration of the approval of the proposed final plat of the Subdivision or if the Subdivision is vacated by the Subdivider.

29. Notice. Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Subdivider:

Attn:

if to Town:

Attn:

if to Issuer:

at Issuer's address shown on the Letter of Credit

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of the change is provided to the other party in accordance with the provisions of this Paragraph.

30. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

31. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement or the Issuer, whether arising out of or relating to the Agreement or the Letter of Credit, will be deemed to be proper only if such action is commenced in District Court for _____ County, Texas, or the United States District Court for the _____ District of Texas, _____ Division. The Subdivider expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal. The Issuer, by providing a Letter of Credit pursuant to the terms of this Agreement, expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

32. Release Upon Completion. Upon acceptance of all Improvements, the Town agrees: **(a)** to complete, execute and deliver to the Subdivider and the Issuer a release in recordable form releasing the Subdivider and Subdivider's heirs, successors and assigns, and the property from all provisions of this Agreement except those contained in Paragraph 10, and **(b)** to return to the Issuer the Letter of Credit and any Escrowed Funds not expended or obligated by the County for the completion of the Improvements.

33. Captions Immaterial. The numbering, order, and captions or headings of the paragraph of this Agreement are for convenience only and shall not be considered in constraining this Agreement.

34. Entire Agreement. This Agreement contains the entire agreement between the parties and correctly sets forth the rights, duties, and obligations of each to the other as of the Effective Date. Any oral representatives or modifications concerning this Agreement shall be of no force or effect excepting a subsequent written modification executed by both parties.

35. Authorization to Complete Blanks. By signing and delivering this Agreement to the appropriate official of the Town, the Subdivider authorizes completion of this Agreement by filling in this Effective Date below.

36. Binding Agreement. The execution and delivery of this Agreement and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate and governmental action of the Town. This Agreement has been duly executed and delivered by each party, and constitutes a legal, valid, and binding obligation of each party enforceable in accordance with the terms as of the effective date. These representations and agreements are for the benefit of the Issuer, and have been relied on by the Issuer in issuing the Letter of Credit

EXECUTED by the parties to be effective as of the day of _____, 20_____.

Town Official

Subdivider

[SIGNATURES OF THE PARTIES TO BE ACKNOWLEDGED]

EXHIBITS:

EXHIBIT A: METES ANS BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT B: SUBDIVISION IMPROVEMENTS

Subdivision Improvements. Subdivider and Town agree the following improvements are required in connection with the approval and development of the Subdivision (collectively, the "Subdivision Improvements"). Subdivider agrees to deliver a financial guarantee acceptable in form and substance to the Town in an amount equal to the Estimated Costs of Completion listed below, as follows:

| <u>Cost of</u> <u>Description of Improvement(s)</u> | <u>Estimated</u> <u>Completion</u> |
|--------------------------------------------------------|---------------------------------------|
|--------------------------------------------------------|---------------------------------------|

- a)
- b)
- c)
- d)
- e)
- f)

SECTION B-1 FEES

A. GENERAL SUBDIVISION FEE. To cover general expenses related to processing subdivision, a subdivision fee will be charged prior to the preliminary plat approval. The subdivision fee shall be \$150.00, or \$5.00 per lot, whichever is greater.

B. ENGINEERING FEES. The Town shall be reimbursed for all Town engineering fees incurred for the required inspection, testing and approval of any subdivision. These fees shall be paid at the time they are incurred. Town engineering fees are as scheduled:

| | |
|-------------------------------------------|----------|
| Sketch Plat Review | \$ 50.00 |
| Preliminary Plat Review | \$100.00 |
| Variance Request | \$150.00 |
| Engineering Report Review | \$150.00 |
| Construction Plans & Specification Review | \$150.00 |

Note: 1. The Developer has the option of contracting the services of a certified testing laboratory, approved by the Town, to conduct all required testing. If this option is selected, the Developer shall be responsible for payment of all laboratory fees; promptly provide copies of all test results to the Town Engineer; and pay a basic testing fee of \$100.00 to the Town prior to commencing construction.

2. In the event that the inspection and/or testing requirements involve specialized engineering review, the Town will retain the services of a Registered Professional Engineer to perform these services. The additional cost of the consulting engineering review shall be reimbursed to the Town by the Developer. If possible, estimates of the additional costs will be provided to the Developer prior to any special inspections and/or review.

C. VACATION AND REPLAT FEES. To cover general expenses related to processing, any replat, or vacation of plat shall require a fee of \$25.00 for each action.

D. METHOD OF PAYMENT. Fee shall be made payable to the Town of Horizon City, Texas. All fees, including Town engineering fees, shall be paid at the time of application for preliminary approval. Fees are non-refundable.