

City of Rio Communities, New Mexico

Ordinance No: 2015-40 AMENDMENTS

TITLE: AN ORDINANCE AMENDING OR ADDING TO MUNICIPAL ORDINANCE NO. 2015-36 (CHAPTER 5, COMPREHENSIVE PLAN) (Addendum C)

AMENDMENT 1: Article 5-1-Entire contents

A. Replace *entire contents under 5-1 with the following:*

I. INVENTORY OF REGULATORY/TRAFFIC SIGNS WITHIN RIO COMMUNITIES:

A. Total of 444 signs:

- | | |
|----------------------------------|--------------------------------------|
| 1. Stop signs - 179 | 7. Dead End signs - 15 |
| 2. Stop Ahead signs – 12 | 8. Slow, Children at Play signs - 27 |
| 3. Yield signs – 0 | 9. Curve ahead signs - 9 |
| 4. Neighborhood Watch signs – 22 | 10. Pedestrian Crossing signs - 2 |
| 5. Speed Control signs – 47 | 11. Miscellaneous signs - 4 |
| 6. Load Limit signs – 0 | |

PASSED, ADOPTED AND APPROVED this 8th day of September, 2015 by the Governing Body of the City of Rio Communities.

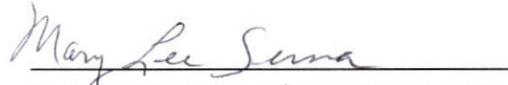


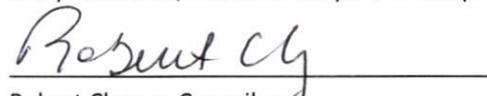
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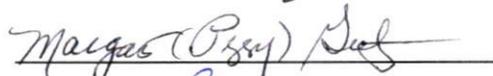

Elizabeth (Lisa) Adair, Municipal Clerk

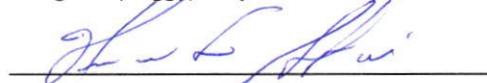
City of Rio Communities Governing Body


Mark Gwinn, Mayor


Mary Lee Serna, Councilor Mayor Pro-temp


Robert Chavez, Councilor


Margaret (Peggy) Gutjahr, Councilor


Frank Stasi, Councilor

City of Rio Communities, New Mexico

Chapter 6 of Municipal Ordinances
SUBDIVISIONS

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City of Rio Communities, New Mexico

CHAPTER 6 SUBDIVISIONS

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ARTICLE 1 GENERAL

- 6-1-1 TITLE
- 6-1-2 ADOPTION
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- 6-1-14 GRANDFATHER CLAUSE

6-1-1 TITLE

This chapter shall hereafter be known as the "Subdivision Ordinance of the City of Rio Communities">

6-1-2 ADOPTION

Pursuant to Sections 3-19-6 through 3-19-7, and Sections 3-20-1 through 3-20-8, NMSA, 1978, that delegates authority to municipalities this chapter is adopted to promote good subdivision planning practices.

6-1-3 STATUTORY COMPLIANCE

The City of Rio Communities is granted authority to regulate the development of all subdivisions within its jurisdiction, and further, to require that all subdividers be in compliance with Section 3-19-6 and Sections 3-20-1 through 3-20-16 of NMSA, 1978. Failure of any subdivider to conform to these sections may result in the disapproval of a subdivision application, whether previously approved by another jurisdiction. See Section 6-1-14(B). Note: Concurrent jurisdiction between the City of Rio Communities and Valencia County may exist in some subdivisions, per § 3-20-5, NMSA 1978.

6-1-4 PURPOSE

This chapter is intended to provide for the orderly development of the City and its environs by controlling and regulating the subdivision of land. The standards contained herein are intended to assure:

- A. The development of economically sound and stable urban and residential areas;
- B. The timely provisions of required streets, utilities other facilities, and services that support new land developments;
- C. The adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian in and through new land developments;
- D. The provision of needed public open space and building sites in new land developments through the dedication or preservation of land for recreational, educational and other public purposes;
- E. Comprehensive water conservation for residential, commercial or industrial uses by encouraging low water use for landscape as well as domestic use;
- F. That drought contingency plans and adequate drainage plans are addressed in all proposals;
- G. The wise and timely development of new areas that are in harmony with the City's comprehensive plan.
- H. Any rule that applies to the platting process also applies to a "re-plat."

6-1-5 APPLICATION OF ORDINANCE

- A. Before filing with the Valencia County Clerk, any plat of a subdivision of any land within the platting jurisdiction of the City of Rio Communities, as permitted by State statute, shall first be submitted to and approved by the Planning and Zoning

Commission of the City (hereafter the Commission), according to the procedures set forth in this ordinance.

- B. Accordingly, no street or other public way or land shall be accepted or maintained, nor shall any water lines, sewer lines, street lighting or similar improvements be extended or connected, nor shall any permit be issued by any department of the City of Rio Communities for the construction of any building or other improvements in any subdivision established hereafter that has not first been reviewed and approved by the Commission in accordance with these regulations.

6-1-6 JURISDICTION

The standards contained herein shall hereafter govern all land subdivisions within the platting jurisdiction of the Commission that shall include such adjacent lands within the City's planning and platting jurisdiction as defined by New Mexico law from time to time.

6-1-7 VARIANCE APPLICATION

Whenever, in the opinion of the Commission, the strict application of the requirements contained in this chapter would result in extreme practical difficulties or undue misuse of property, the Commission may grant a variance so that the subdivider is allowed to develop their property in a reasonable manner, provided the public interests of the community and its citizens are protected and the general intent and spirit of these regulations is preserved. Any request for variance must first be made in writing to the Commission.

A. Criteria: The Commission shall grant a minimum variance or modification to relieve a hardship only upon a determination that:

1. The variance will not be detrimental to the public health, safety, and general welfare of the community; or
2. The variance will not adversely affect the reasonable development of adjacent property; or
3. The variance is justified because of topographic or other special conditions unique to the property involved and is not due to mere inconvenience or financial disadvantage; or
4. The variance is consistent with the objectives of this chapter and will not have the effect of nullifying the intent or purpose of this chapter or the comprehensive plan; or

5. The variance has been shown to be in the best interest of the general public and not solely in the interest to the developer, land owner or other interested party; or
6. The hardship must not be pecuniary and must be a direct result of the land location, topography or other characteristic; or
7. Where a variance is requested from the required provision of sidewalks, an alternate ADA complaint route to the nearest bus stop or school shall be required. If an alternate route cannot be provided, a variance shall not be approved.

B. Procedure: An application for a variance shall be submitted in writing by the subdivider, on prescribed forms provided by the City, at the time the preliminary plat is filed for consideration by the Commission.

1. The application shall state fully the facts relied upon and the grounds for the variance to include adequate responses to the criteria for a variance as stated above in Section 6-1-7A.
2. The applicant shall post notification for the requested variance on a sign provided by the City at the property line closest to a street, a minimum of five (5) days before to the Commission hearing the request. The sign shall state the date, time, and location of the Commission hearing and a description of the requested variance.
3. The Commission shall hear the request at its next regularly scheduled meeting. The Commission may approve, approve with conditions, deny, continue or defer the request. In the case of deferral or continuance, the Commission shall make a decision within 90 days of the initial hearing.

C. Appeal: Should the Commission deny the variance, the subdivider/applicant may request an appeal in writing to the Commission.

1. The subdivider/applicant shall include in the request for appeal, any additional and relevant information that may further their request for variance.
2. The Commission shall, upon receipt of the subdivider/applicant's written appeal, notify the subdivider/applicant via certified mail of a rehearing.
3. If the Commission denies the subdivider/applicant's written appeal, the subdivider/applicant may request a full hearing before the City Council. Such hearing shall be scheduled by the City Council at the first available opportunity

and the subdivider will be notified by certified mail at least five (5) days before the meeting. City Council notifications are posted at least six (6) days before to meeting. The City Council majority vote will be final.

6-1-8 AMENDMENTS

As required, this chapter may be amended. The Commission shall submit detailed recommendations for amendments to this ordinance to the City Council, who shall then hold a public hearing to consider any amendment.

- A. Notification of such hearing shall be conspicuously posted six (6) days before the hearing at seven (7) public locations throughout the City. The notification shall include the proposed amendment, the day, time, and location of the hearing.
- B. The proposed final version of the amendment shall be conspicuously posted for public scrutiny and comment at seven (7) public locations throughout the City. After fifteen (15) days of posting, the City Council may consider passing the amendment. If passed, it will become part of the ordinance after ten (10) days.

6-1-9 VIOLATIONS AND PENALTIES

- A. Unless otherwise provided, any person, firm or corporation who violates the provisions of this chapter, or the owner or agent of the owner of any land to be subdivided within the jurisdiction of this chapter, who transfers or sells or agrees to sell or negotiates, or advertises to sell such land by reference to or exhibition of or by other use of a plat or subdivision of such land before such plat has been approved by the Commission and recorded in the office of the Valencia County Clerk, shall be guilty of a misdemeanor, punishable as provided by law and with each day such violation continues, constituting a separate offense.
- B. The City shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations.
- C. No building permit or permit of occupancy shall be issued until such violations are remedied to the satisfaction of the Planning and Zoning Commission.

6-1-10 INTERPRETATION AND CONFLICT

- A. The standards and provisions of this chapter shall be interpreted as being the minimum requirements necessary to uphold the purpose of this chapter and for the protection of the health, safety, economy, good order, appearance, convenience, and welfare to the general public.

- B. Whenever this chapter imposes a higher standard than required by other resolutions, ordinances, rules or regulations, or by easements, covenants or agreements, the provisions of this chapter shall govern. When the provisions of any other statute impose higher standards, the provisions of such statute shall govern.

6-1-11 SEPARABILITY AND VALIDITY

Should any section, paragraph, clause, phrase or provision of this chapter be judged invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of this chapter as a whole, or any part of provision thereof, other than that part so decided to be invalid or unconstitutional.

6-1-12 REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances in conflict herewith are repealed to the extent necessary to give this chapter full force and effect.

6-1-13 EFFECTIVE DATE

This chapter shall take effect and be in force five (5) days after the publication of adoption by the City Council.

6-1-14 GRANDFATHER CLAUSE

- A. Subdivisions that have received full approval for their preliminary plats by other entities other than the Rio Communities' Commission or City Council prior to the effective date of this chapter, and that have not expired, shall not be subject to the provisions of this chapter.
- B. Final plats within the City limits of Rio Communities that were recorded before the adoption of this chapter, but where no improvements were constructed or made, or where no financial guarantee is in place, may be rejected if not in full compliance with this chapter upon commencement of any construction. See: *Miller v. SF County Bd. Co. Commn*, 2008-NMCA-124, 144 N.M. 841, 192 P.3d 1218.

ARTICLE 2 PLAT SUBMISSION AND REVIEW PROCEDURES

- 6-2-1 ALTERNATE SUMMARY PROCEDURE (ASP): PLANS EXEMPTED FROM STANDARD PROCEDURES
- 6-2-2 GENERAL PROCEDURES—APPROVAL OF SUBDIVISION
- 6-2-3 SPECIFIC PROCEDURES— PRE-DEVELOPMENT MEETING
- 6-2-4 SPECIFIC PROCEDURES— SKETCH PLAN
- 6-2-5 SPECIFIC PROCEDURES— PRELIMINARY PLAT
- 6-2-6 SPECIFIC PROCEDURES— FINAL PLAT

6-2-1 ALTERNATE SUMMARY PROCEDURE (ASP): PLANS EXEMPTED FROM STANDARD PROCEDURES

Subdivision plats that fall into any of the following categories shall be exempt from the standard subdivision review and approval procedure and shall be processed through an alternate summary procedure where:

- A. Subdivisions of not more than two (2) parcels of land, and where adjacent streets, drainage facilities, water and sewer lines are deemed adequate and where direct access is provided from a platted street; or
- B. Re-subdivisions, where the combination or recombination of portions of previously platted lots does not increase the total number of lots; or
- C. Subdivisions of two (2) or more parcels of land in areas zoned for industrial use where adjacent streets, drainage facilities, and water and sewer lines are deemed adequate.
- D. Additionally, Subdivisions exempt from the standard procedure shall be limited to one parcel per owner as calculated from approval date.

E. Alternate Summary Procedure

1. Any subdivider claiming to meet one (1) of the above conditions may solicit, in writing, to the City Clerk, for a hearing before the Planning and Zoning Commission to discuss the proposed subdivision. The City Clerk will schedule a hearing for the next Planning and Zoning meeting. The petitioner shall be notified via certified mail, at least five (5) days before the scheduled meeting.
2. It shall be the responsibility of the subdivider/petitioner to promptly notify, within five (5) days of the scheduled hearing, any landowner whose property is located within three-hundred (300) feet of the proposed subdivision, by posting a sign provided by the City at the property line closest to a street. The

sign shall state the date, time, and location of the Commission hearing and a general description of the requested subdivision.

3. Failure on the part of the subdivider/petitioner to properly post this notification may jeopardize the subdivider/petitioner's alternate summary procedure.
4. The petitioner shall provide to the Commission at the time of the meeting, a simple drawing of the proposed project that clearly indicates the address of the project, placement of the parcel in relationship to surrounding property, and a description of what they are attempting to accomplish.
5. If the Commission approves the proposed subdivision, the petitioner shall then submit to the City Clerk one (1) Mylar and three (3) copies of the final plat, all signed in permanent black ink by a *registered agent* (See definition section) and completed appropriate parts of Appendix A.
6. Upon determination by the Commission that the final plat conforms to the standards of this and other applicable ordinances, the Planning and Zoning Commission may approve the plat.
7. If the proposed subdivision is approved, the Commission Chairman and Secretary shall sign the Mylar and all three (3) copies of the plat.
 - a. One (1) copy will be retained in the Commission files;
 - b. One (1) copy will be retained by the subdivider to file with the Valencia County Clerk's office; and
 - c. The remaining copy will be returned to the subdivider.
 - d. Approved and signed Mylar will be retained by City Clerk.
8. If the plat is disapproved, the Mylar and all three (3) copies shall be:
 - a. Signed by Commission Chairman and Secretary with notation that it was disapproved.
 - b. The Commission shall also note on the Mylar and all three (3) copies, their recommended changes.
 - c. One (1) signed copy with disapproved notation and recommended changes will be returned to the subdivider.

F. Petitioner's Appeal Process

1. The petitioner may appeal to the City Council by filing a written statement with the City Clerk.

2. The statement and appeal form (provided by the City) must include a copy of the signed plat with recommended changes, along with a list of the issues (rebuttals) the petitioner feels were decided in error.
3. The City Council may, at their discretion, allow for the appeal to be heard at a public forum.
4. The City Council shall review and make the final decision by majority vote.

6-2-2 GENERAL PROCEDURES— APPROVAL OF SUBDIVISION

The following sections outline the three (3) procedures necessary for obtaining approval for a subdivision of land within the platting jurisdiction of the City of Rio Communities.

- A. Pre-development Meeting: Petitioner shall schedule an informal consultation with the Commission (or its designee and/or technical consultant), to review, for compliance, the proposed subdivision project. There is no fee for this service.
- B. Petitioner shall submit to the Commission, for review and approval, a Preliminary Plat of the proposed subdivision. Complete appropriate parts of Appendix A.
- C. Upon approval of the preliminary plat, the Petitioner shall submit to the Commission, a Final Plat, together with all required certificates. The final plat becomes the instrument to be recorded in the office of the Valencia County Clerk when duly signed by the Mayor and City Clerk of the City of Rio Communities.
- D. Any owner of land lying within the platting jurisdiction of the City who wishes to subdivide land into two (2) or more lots, sites or divisions, for the purpose of either immediate or future sale or building development, or wishing to re-subdivide for this purpose, shall submit a plan of such proposed subdivision to the Commission for approval and shall obtain such approval prior to the filing their subdivision.
- E. No plat of a subdivision of land within the jurisdiction of the City shall be filed or recorded by the Valencia County Clerk without the approval of the Planning and Zoning Commission and City Council.
- F. In order to secure review and approval of the Commission for a proposed subdivision, the prospective subdivider (petitioner) shall, prior to the making of street improvements or installations of utilities, submit to the Commission a preliminary plat as provided for in Section 6-2-5 below.

- G. On approval of said plat as preliminary plat, the petitioner may proceed with the preparation of the final plat and other documents required in connection therewith as specified in Section 6-2-6 below, and the improvements set forth in Article V of this document.

6-2-3 SPECIFIC PROCEDURES— PRE-DEVELOPMENT MEETING

Prior to the preparation of the plans and plats required herein, the subdivider is encouraged to consult with the Commission in a ***Pre-Development Meeting*** to discuss and confirm the requirements of this chapter, land subdivision practices generally, and the provisions of the City’s Comprehensive Plan as appropriate.

6-2-4 SPECIFIC PROCEDURES— SKETCH PLAN

- A. **Submission:** Prior to the preliminary plat application, a ***sketch plan*** shall be submitted to the City Clerk. The purpose of the sketch plan is to enable the City staff to assist the subdivider prior to extensive site planning and engineering work necessary for the preparation of a preliminary plat and a final plat as required.
- B. **Conference:** For the purpose of informal and confidential review and discussion, a conference shall be held between the subdivider (or their agent), the Commission Chairman (or their designee), and other technical staff, as appropriate.
- C. **Review:** Following the conference, and based on the information shown on the sketch plan, the conferring officials shall, as promptly as possible, advise the subdivider of the extent to which the proposed subdivision conforms to the applicable requirements of this chapter and shall further suggest any modifications to the plan that are deemed advisable or necessary to secure conformance.

6-2-5 SPECIFIC PROCEDURES— PRELIMINARY PLAT

- A. **Submission:** The subdivider shall submit to the City Clerk, a preliminary plat of the proposed subdivision as prepared by a licensed surveyor on size “D” Mylar; together with an electronic PDF copy, five (5) size “D” paper copies, as well as any relevant construction drawings and supplemental material that will aid in the review process. Such drawings and support documentation shall be submitted to the City Clerk within five (5) days of the Commission’s review.
- B. **Review:** The plat will be reviewed for adherence to this Ordinance. The Commission may submit the preliminary plat to any appropriate agencies for their review prior to final action. The subdivider may be asked by the Commission to provide additional copies of the preliminary plat as needed.

- C. **Notification:** The person requesting the subdivision shall be notified by certified mail at least five (5) days prior to the scheduled Commission review meeting.
- D. **Hearing:** Upon completion of the review, both the minutes of the Commission meeting and pertinent reports from any other departments or agencies, if any, will be forwarded to the City Council in preparation for the scheduled City Council Public Hearing.
- E. **Contiguous Landowners:** The subdivider shall furnish the Commission a list of all property owners within three-hundred (300) feet of the sub-division. The list must be typed in *Excel* or a word format. A list may be obtained from the County Assessor's office or through their official website. Notification of the proposed subdivision shall be mailed by certified delivery within five (5) days after approval by the Commission, to all property owners on the list. The notification shall include the day, time, and location of the public hearing. The subdivider shall be responsible for postage.
- F. **Contiguous Holdings & Common Ownership:** The subdivider shall provide a plat that includes all contiguous holdings of the owner including land held in "common ownership" as defined in these regulations, and that indicates any portion that is proposed to be subdivided, accompanied by evidence of ownership, such as a copy of the deed. The information shall include the book and page number of the recorded document and granting title if available.
- G. **Amendment:** An amendment to the preliminary plat may be made at any time, prior to final plat approval. An additional charge may be made, if the amendment requires significant reworking by the Commission. If the amendment is submitted after the Public Hearing, a new public hearing shall be convened.
- H. **Application Fee:** To defray the cost of processing the plat, to include its review, notifying interested parties and inspection, the subdivider shall pay the applicable fee according to the fee schedule as specified in Appendix B.
- I. **City Council Review & Public Hearings**
 - 1. The City Council shall act upon the preliminary plat within thirty five (35) days of its initial review by the Planning and Zoning Committee. Failure to act by the City Council is considered a negative (disapproved) vote by the Council.
 - 2. The City Council shall schedule a public hearing. Official notification of the subdivision hearing shall be conspicuously posted at seven (7) public locations

for fourteen (14) days prior to final action by the Council. Copies of the subdivision shall be available for inspection at City Hall and on the City's webpage.

3. Notice of the day, time, and place of the public hearing shall be sent by certified mail to the subdivider whose name and address appear on the required application for the preliminary plat. Such notice shall be sent not less than five (5) days before the date fixed for the meeting. At this meeting, the Council shall approve; approve conditionally; disapprove the plat; opt to continue discussion of the plat at a later specified meeting (continuance); or defer discussion and decision to a subsequent meeting (deferral).
4. The public is encouraged to voice their concerns about the pending subdivision by submitting in writing their concerns or comments, either by direct hand delivery to City Hall, by U.S. Mail, or by email to: admin@riocommunities.net.
5. The City Council will review oral complaints at the scheduled Public Forum and consider any submitted written concerns or comments made during the posting period of the proposed subdivision. All such concerns or comments shall become part of the public record.

J. Disposition of Preliminary Plat

1. **Disapproved or Approved Conditionally:** If the preliminary plat is disapproved or approved conditionally, the reasons for such actions shall be stated in writing and signed by the City Mayor. The reasons for disapproval shall reference specifically those parts of this Ordinance, the Comprehensive Plan, or other regulation to which the plat does not conform.
 - a. One (1) copy of the reasons shall be retained in the records of the Council and one (1) copy shall be given to the applicant.
 - b. If the preliminary plat is disapproved, a challenge may be obtained by filing a written appeal on a City form that shall contain a detailed listing of the items the subdivider wishes to challenge.
 - c. The challenge hearing shall be scheduled by the City Council at a normal meeting as soon as possible. It will follow the normal public review process for posting and conducting the meeting. The result of this review by the City Council is final.
2. **Conditional Approval:** If the preliminary plat is approved with conditions, the Council shall require the subdivider to resubmit the plat, incorporating all recommended changes before approving the plat.

3. **Approval:** When the preliminary (whether original or revised) plat is found to conform to all requirements of this chapter, the governing body shall validate approval by signing in black ink, two (2) paper copies of the preliminary plat. One (1) copy shall be given to the subdivider, and one (1) copy shall be retained by the Council. See Section 6-2-5(A).
 4. **County Clerk:** Upon receiving Council approval of their preliminary plat, the subdivider shall register the approved preliminary plat on size "D" Mylar to the Valencia County Clerk's office, along with two (2) size "D" paper copies.
- K. **Effect of Preliminary Plat Approval:** Approval of the preliminary plat shall not constitute approval of the plat in final form.
1. Preliminary approval shall be authorization for the subdivider to proceed with the installation of site improvements and to proceed with preparation of the final plat, but shall not authorize the sale or other transfer of lots.
 2. Failure to install the approved site improvements shall be grounds for rejection of the final plat. A phased construction schedule, if requested, will be considered by the Commission.
- L. **Contents of Preliminary Plat Submittal:** The preliminary plat shall include the following:
1. General subdivision information that adequately describes or outlines the proposed development as necessary to supplement required drawings
 2. Sufficient topographic data of existing conditions that support the basis for the preliminary plat, to include, but not limited to:
 - a. Ground elevations for the tract, based on mean sea level datum as established by the National Geodetic Survey (NGS), and the following rules:
 - (1) For land that slopes less than five (5%) percent, show spot elevations at all breaks in grade, along all drainage channels or swales and at selected points not more than one-hundred (100) feet apart in all directions; and
 - (2) For land that slopes more than five (5%) percent, show contours with an interval of not more than five (5) feet.

- b. Subsurface conditions on the tract, if required by the Commission: groundwater conditions and depth to groundwater unless test pits are dry at a depth of five (5) feet.
 - c. Other conditions on the tract, if required by the Commission including, isolated and preferable trees one (1) foot or more in diameter, houses, barns, shacks, retaining walls, and any other conditions.
 - d. Other conditions on adjacent land, if required by the Commission, including, but not limited to, approximate direction and gradient of ground slope, including any embankments or retaining walls.
 - e. The Commission may require the applicant to provide a detailed hydrological study prepared by a qualified hydrologist. Such study shall provide information as to the flow of surface water, the effects of the proposed subdivision on the drainage system that is located on the land to be subdivided, and other data sufficient to determine the adequacy of drainage proposals or treatment.
 - f. If a proposed subdivision is located all or in part within an area of special flood hazard as determined by the Federal Emergency Management Agency, it shall be noted on the preliminary plat.
3. The preliminary plat shall be drawn to a minimum scale of one (1) inch to one-hundred (100) feet (1": 100') and shall show the following:
- a. All significant features as determined from topographic and location maps.
 - b. Significant features of the proposed subdivision to include as applicable:
 - (1) Streets names, right-of-ways, widths and approximate grades; and
 - (2) Other right-of-ways, easements, locations, widths, and their purpose; and
 - (3) Location of utilities, if not shown on other exhibits; and
 - (4) Lot lines, lot numbers, and block numbers; and
 - (5) Sites, if any, for multi-family dwellings, shopping centers, and family dwellings; and

- (6) Sites to be reserved or dedicated for parks & playgrounds (one park/playground per 315 residential family units; National Parks and Recreation Association); and
 - (7) Minimum setback lines at front of all lots and sides of corner; and
 - (8) Site data including number of residential lots, and typical lot size; and
 - (9) Total acreage of tract; and
 - (10) Title (name of subdivision), developer, scale, north arrow.
- c. Additional information as applicable:
- (1) Title and certificates: Present tract designation according to proposed subdivision is to be recorded with names and addresses of owners, notation stating acreage, location of benchmarks, certification number of the registered professional surveyor, and a metes and bounds legal description of the tract;
 - (2) The preliminary plat shall be accompanied by construction proposed street grades including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross section of the proposed grading, roadways and sidewalks, and proposed water supply, sanitary and storm sewers with grades benchmarks;
 - (3) Draft of protective covenants, whereby the developer proposes proposed environment;
 - (4) Draft of subdivision improvements agreement, whereby the developer declares their intention to make agreed-upon improvements to the subdivision. Bonding may be required.
- d. In the event a subdivider feels aggrieved by the decision of the Commission, the subdivider may file a written appeal with the Commission for a variance as described in Section 6-1-7. If the subdivider is still aggrieved by the decision of the Commission, a written appeal may be filed with the City Council for action at a regular Council meeting. The City Council is the final arbitrator.
- e. As with the alternate summary procedure process (see Section 6-2-1), it shall be the responsibility of the subdivider/petitioner to promptly notify, within five (5) days of the scheduled appeal hearing, any landowner whose

property is located within three-hundred (300) feet of the proposed subdivision, by posting a sign provided by the City at the property line closest to a street. The sign shall state the date, time and location of the Commission hearing and a general description of the requested subdivision.

M. **Expiration of Preliminary Plat:** Preliminary plats and associated construction drawings shall expire two (2) years from approval date, if construction has not begun. An extension of up to one (1) year may be granted by the Planning and Zoning Commission, if progress is being made toward the construction of infrastructure improvements.

N. **Agency Review Process:** During the initial preliminary review process, the Commission may require the subdivider to furnish additional preliminary plat copies, along with supporting documentation to other agencies for their review. Failure to provide such copies shall be grounds for rejection of the Preliminary Plat by the Commission. Such agencies may include, but is not limited to:

1. New Mexico Highway and Transportation Department
2. New Mexico State Engineer's Office
3. New Mexico Environment Department
4. City or County Fire Marshal
5. Soil and Water Conservation District
6. Army Corps of Engineer
7. Mid Rio Grande Conservancy District

Each agency shall have sixty (60) days from the receipt of the plat to review and comment to Rio Communities Planning and Zoning Commission concerning the proposed subdivision.

6-2-6 SPECIFIC PROCEDURES— FINAL PLAT

A. **Submission:** The subdivider shall prepare and submit a final plat to the City Clerk before the first Friday of the month, and before the next month's regularly scheduled Planning and Zoning meeting at which the subdivision is to be considered. The plat submission package shall consist of:

1. One (1) size "D" Mylar;
2. Three (3) paper copies;
3. One (1) electronic file copy (in PDF format); and
4. An application requesting approval of the plat.
5. All plat drawings (Mylar and paper copies) shall be signed in permanent black ink by the appropriate registered agents.

- B. **Planning and Zoning Commission Responsibilities:** The Commission shall review and act upon the final plat within 90 days of the date of its submission to the City Clerk. However, if the Commission takes no action during the 90-day time period, the Final Plat is considered approved by the Commission and will be automatically forwarded to City Council for consideration and review.
1. **Commission Findings:** If the Commission, upon review of applicant's subdivision proposal, has any issues, questions or comments, the applicant shall be notified of these findings via certified mail at least five (5) days before the next scheduled Commission meeting.
 2. **Applicant Responsibility:** It shall be the responsibility of the applicant to adequately resolve any issues, answer any questions, or address any comments put forth by the Commission.
 3. **Commission Approval/Vote:** Upon receipt of the final plat (to include amendments, corrections, or any other pertinent information, as requested by the Commission), the Commission shall vote to approve/disapprove the applicant's subdivision proposal by a simple majority vote.
 4. **Time Extension:** At every step in the Commission review/approval process, the applicant may submit to the Commission, a written request for an extension of time.
 5. **Commission Approval:** Upon approval by the Commission, the Commission shall forward to the City Council, the final plat, all pertinent information, and verification signed by the Commission Chair, that all required site improvements have been installed to the City's satisfaction, or that adequate financial guarantees have been posted, securing to the City, the actual construction and installation of required site improvements. **Note:** The Commission may permit the submission of the final plat in sections, with each section covering a reasonable portion of the entire proposed subdivision as shown on the approved preliminary plat.
- C. **City Council Responsibilities:** The Council shall review and act upon the final plat within sixty (60) days from receipt by the City Council.
1. Pending approval by the Council, the final plat shall conform in all respects and shall incorporate all modifications as previously approved by the Commission.
 2. The final plat as approved by the Council shall be recorded on the face of the original or revised Mylar drawing and on five (5) copies reproduced from the

approved Mylar. Such approval shall be dated and verified thereon by the signature, in black ink, of the Mayor and City Clerk in the spaces provided.

3. The subdivider shall provide the City Clerk with an electronic file (in PDF format) of the approved final plat.
4. If the final plat is disapproved by the Council, the reason(s) for disapproval shall be cited to specific references. Such references shall be dated and signed by the Mayor in black ink and attached to two (2) copies of the final plat.
5. In either event, one (1) of the two (2) signed copies shall be returned to the subdivider and the other shall become part of the files of the Council.
6. If a final plat is approved, the original drawing of the plat shall be retained in the files of the Council or County Clerk. If the final plat is disapproved, the original drawing shall be returned to the subdivider. A non-recorded subdivision plat shall be invalid and no building permit shall be issued. None of the requirements of this paragraph shall be modified or waived.
7. Final plats shall be recorded with the Valencia County Clerk within ten (10) days after by the approval by the Council. Recording of the plat shall constitute an irrevocable offer to dedicate all streets, parks, school sites, and other public ways shown thereon to the public for the use so specified. If no offer of dedication is made by the subdivider, a notation shall be placed on the plat and approved by the Council.

ARTICLE 3 PLAT REQUIREMENTS

6-3-1 SKETCH PLAN

6-3-2 PRELIMINARY PLAT

6-3-3 FINAL PLAT

6-3-1 SKETCH PLAN

A. The sketch plan of a proposed subdivision shall be drawn on a corresponding sheet size, as required for preliminary plats, and shall contain at least the following data, legibly drawn to scale, but not necessarily showing precise dimensions:

1. North arrow, written and graphic scales, and a location map showing the relationship between the proposed subdivision and the surrounding area that specifically shows existing and proposed shopping centers, schools, parks, churches, and other public uses; and
2. Tract boundaries and total acreage; and
3. Significant topographical and physical features, including the location of water courses within the tract; and
4. The locations, names and rights-of-way widths of existing streets in the vicinity of the tract; and
5. Tentative street and lot arrangements showing average lot size and the number of lots; and
6. Existing and proposed land uses throughout the subdivision; and
7. Existing zoning classification and changes, if any; and
8. Time or phasing schedule, if only part of the subdivision is to be developed at one time.

6-3-2 PRELIMINARY PLAT

A. **General Provisions:** The preliminary plat of a proposed subdivision shall be clearly and legibly drawn to a scale not smaller than one (1) inch equal to one hundred (100) feet (1" : 100').

B. **Content:** The preliminary plat shall contain or be accompanied by the following information.

1. General Information:

- a. Proposed name of subdivision. The name shall not duplicate subdivision within the city or its platting jurisdiction;
- b. North arrow, graphic scale legends, and date including the month, day, and year for each revision of the original drawing;
- c. Name of record owner, subdivider and registered land surveyor; and
- d. Names and locations of all abutting subdivisions, if any; and
- e. Existing zoning classification of the tract, and any proposed rezoning.

2. Existing Site Data:

- a. The distance and bearing of one (1) of the corners of the boundary of the subdivision to the nearest intersection of existing streets or roads; and
- b. Total tract boundaries of the property being subdivided, showing bearings and distances, and a statement of total acreage of the property;
- c. Contour lines at vertical intervals of two (2) feet or less. The location and elevation of the bench mark to which contour elevations refer shall be known; and
- d. All existing municipal boundaries, property lines, rights-of-way, culverts, bridges, storm drainage ditches, watercourses, buildings, floodplain areas based on a 100-year flood and all other significant manmade or natural features within the proposed subdivision and within fifty (50) feet from the boundaries of the proposed subdivision; and
- e. All existing streets, including streets of record (recorded but not constructed), on or abutting the tract including the names, rights-of-way widths, pavement widths and approximate grades. See Section 6-4-2(L).

3. Proposed Site Data:

- a. Street and alley rights-of-way and street names shall be provided; and
- b. Lot lines, lot dimensions, lot and block numbers and minimum building setback lines along street rights-of-way; and
- c. Other easements and rights-of-way including location, dimensions, and purposes; and

- d. Parks, school sites and other areas designated for public use, if any, with the purpose, location and dimensions of each clearly indicated.

4. Supplementary Data:

- a. Title under which proposed subdivision is to be recorded with name and addresses of owners, notation stating acreage, location of benchmark, certification of the registered professional surveyor, and a metes and bounds legal description of the tract; and
- b. Draft of any restrictions, including protective covenants proposed, shall be included in the owner's declaration of plat; and
- c. Three (3) copies of approval documents from the New Mexico Environment Department when individual sewage disposal systems (septic tanks) or water supply systems are to be used. New individual sewage disposal systems are not permitted within the City limits; and
- d. A vicinity map locating the property being subdivided and showing the relation of the property, differentiated by tone or pattern, to adjoining property and to all streets, roads, municipal boundaries and recorded subdivision plats existing within one thousand (1,000) feet of any part of the property.

5. Construction Plans:

- a. Plan and profile of proposed streets indicating width of the street, location of cul-de-sacs, drainage, any structures within the roadway, and existing and proposed grades; and
- b. Plan and profile of proposed sanitary and storm sewers indicating grades, location of manholes, rim and invert elevations; and
- c. Proposed water, cable TV, electrical and natural gas improvements, indicating location and size of such improvements; location of shut-off valves, fire hydrants, transformers, and street lights; and
- d. Proposed drainage handling improvements, indicating location of drainage structures, any required on-site detention and retention areas, runoff data and capacity of the proposed structures. A drainage study for the affected area or areas shall be submitted with the construction plans; and

- e. Typical road cross-section(s) and other details for construction of sanitary and storm sewers, water supply, drainage and other proposed improvements; and
- f. A drainage plan indicating topographic changes with contour intervals of not less than two (2) feet, local embankments, retaining ponds, retaining walls, and location of soil percolation test holes as may be required to determine subsurface conditions.

6-3-3 FINAL PLAT

A. **Platting Information:** The final plat shall be clearly and legibly drawn at a minimum, on Size D (24" x 36") Mylar at an appropriate scale. The final plat shall contain or be accompanied by the following minimum design standards:

1. **General information**

- a. Name of subdivision;
- b. Name of record owner, subdivider and registered certifying surveyor;
- c. North arrow, graphic, written scales, legends, and filing date;
- d. Name and locations of all abutting subdivisions, if any, and location.

2. **Platting Information:**

- a. The boundary lines of the area being subdivided shall be in accordance with the physical plat.
- b. Correct course distances to the nearest established street lines or subdivision.
- c. Street designations according to the provisions of the Comprehensive Plan.
- d. Names, widths and lines of all streets within or on the perimeter of the angles to streets, alleys and lot lines to the nearest second.
- e. Radii, central angles, tangents, lengths of arcs and curvatures of all rights of way.
- f. Lines and widths of all easements provided for or held by public including notation of any limitations on such easements.

- g. All watercourses, streams, lake shores, wetlands and floodplains including the fluctuation distance indicated by ordinary high and low marks.
 - h. Lot numbers and block numbers. Lot lines shall be defined by distance bearings or by angles of deflection from other lot and street lines.
 - i. The location (and elevation, if established) of all existing and proposed property improvements.
3. **Additional Information:**
- a. Building setback lines accurately shown with dimensions,
 - b. A statement of the intended use of all nonresidential lots, with the deed.
 - c. Accurate boundaries of any area to be dedicated or reserved for public use or acquisition, designated as blocks "A," "B," "C," etc., with the purpose indicated thereon and in the dedication. Any area to be reserved by deed, covenants or restrictions for the common use by owners of land contained within the subdivision shall be indicated.
4. **Certification:** The following certificates shall be lettered or printed on the face of the final plat in substantially the same form as provided in the Appendix A to this chapter:
- a. The signature, seal and certification of a registered professional land surveyor to the effect that the final plat accurately reflects a survey made by him or her, that any changes from the description appearing in the last record transfer of land contained in the final plat are so indicated, that all monuments shown thereon actually exist or will be installed and their positions are accurately shown, and that all dimensional and geodetic details are correct.
 - b. A notarized certification of title showing that the applicants are the owners and statements by such owners acknowledging offers of dedication of land for public use and restricting land by protective covenants. This certification shall also indicate that the title thereof is free and unencumbered.
 - c. The signature, seal and approval of the developer's designated registered engineer shall indicate that required improvements have been satisfactorily installed or that adequate financial guarantees have been provided in accordance with section 6-5-3. Registry of Design Engineer must be in New Mexico.

- d. A statement from the different private utility companies having a franchise in the area where the subdivision is located, indicating that required improvements have been satisfactorily installed in accordance with plans and specifications or that adequate financial guarantees have been provided in accordance with section 6-5-3 of this chapter.
 - e. Certification by other entities having easements directly affected by the subdivision such as CID, pipeline companies, or others, indicating that required improvements will not negatively affect the operation of the facility or service.
 - f. A statement from the Planning and Zoning Chairman indicating that required site improvements have been installed to the City's satisfaction, or that an adequate financial guarantee has been posted securing to the City the actual construction and installation of required site improvements.
 - g. Appropriate notations for transfer and recording by the Valencia County Clerk indicating date and time of recording, the plat book location thereof and instrument number.
 - h. The signature of the chair and secretary of the Commission together with the seal of the City.
5. **Improvement Plans & Data:**
The subdivider shall submit construction plans and specifications for all improvements and installations required by Article 5 of this chapter. The construction plans and specifications shall consist of all cross sections, profiles and other engineering data deemed necessary by the City Planning and Zoning Commission for the proper design and construction of all required improvements and installations.
6. **Financial Guarantees:**
Financial guarantees as required in Section 6-7-1 shall be submitted to the Commission along with the final plat. Approval of the final plat shall not be granted in the absence of such guarantees.

ARTICLE 4 DESIGN STANDARDS

- 6-4-1 GENERAL PROVISIONS**
- 6-4-2 STREETS**
- 6-4-3 BLOCKS**
- 6-4-4 LOTS**
- 6-4-5 PUBLIC USE AND SERVICE AREAS**
- 6-4-6 SUITABILITY OF THE LAND**
- 6-4-7 LARGE TRACTS OR PARCELS**
- 6-4-8 PLANNED DEVELOPMENTS**
- 6-4-9 FLOOD-PRONE AREAS**

6-4-1 GENERAL PROVISIONS

The design standards contained herein shall be considered minimum standards. However, higher design standards are encouraged in subdivision design.

6-4-2 STREETS

- A. **Relation to Adjoining Street System:** The proposed street system shall extend existing streets or projects. They shall be extended at a width no less than the required minimum width as set forth in this Section or the width of the existing street, whichever is greater.
- B. **Access to Streets & Subdivision Boundaries:** Sufficient access streets to adjoining properties shall be provided in subdivisions to permit harmonious development of the area.
- C. **Street Widths:** The minimum width of any right-of-way, measured from lot line to lot line, shall be in accordance with the following:

<u>Type of Street *</u>	<u>Width (ft)</u>	<u>Length (ft)</u>	<u>Maximum # of Units</u>
Arterial Streets	80		
Highways	150		
Collector Streets	60		
Local Streets	60		
Dead Ends/Cul-de-Sacs	100	800	15 units
Rural Streets	60		
Loop Streets	60	1200	24 units
Alleys	20		
Residential Streets	60		

*Note: The Commission shall have the authority to classify any street.

1. **Arterial Streets & Highways \geq 80 Feet:** Arterial streets are those to be used primarily for fast or heavy traffic;
 2. **Highways \geq 150 Feet:** Highways are those primarily used for the fastest or heaviest traffic.
 3. **Collector streets \geq 60 Feet:** Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways and include the principal entrance streets of a residential development and streets for major circulation within such a development;
 4. **Local streets \geq 60 Feet:** Local streets are those streets that primarily permit direct access to abutting lands and connect to collector and arterial streets. Service to through-traffic movement should be deliberately discouraged.
 5. **Dead-end/Cul-de-Sacs:** The minimum diameter of a cul-de-sac is 100 feet. Cul-de-Sacs are permanent dead-end streets or courts that may not exceed 800 feet in length or 15 dwelling units, and are designed so that they cannot be extended in the future;
 6. **Rural streets. \geq 60 Feet:** Rural streets include:
 - a. Those streets where development density is not more than one dwelling unit per one (1) acre; or
 - b. Streets developed in the 3-mile planning and platting jurisdiction of the City.
 7. **Loop streets \geq 60 Feet:** Loop streets are streets open at both ends and connected to only one residential street. Loop streets have a maximum length of 1,200 feet or 24 dwelling units.
 8. **Alleys \geq 20 Feet:** Alleys are minor public ways used primarily for service access to the back or side of properties otherwise abutting on a street.
 9. **Residential streets \geq 60 Feet:** Residential streets are streets so designated and designed to carry low traffic volumes primarily through residential areas and neighborhoods.
- D. **Additional Widths on Existing Streets:** Subdivisions adjoining existing streets shall dedicate and provide additional right-of-ways to meet the above minimum street requirements.

1. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing streets; and
 2. When the subdivision is located on only one (1) side of an existing street, one-half (1/2) of the required right-of-way, measured from the centerline of the existing roadway, shall be provided.
 3. In no case shall the resulting right-of-way be less than sixty (60) feet.
 4. When the subdivision is located on only one side of a newly platted street, a minimum of one-half (1/2) of the required street width shall be constructed, but in no case shall the resulting street be less than twenty-four (24) feet in width.
- E. **Restriction of Access:** Where a subdivision abuts or contains an existing or proposed major street, the Commission may require a frontage street or buffering with vegetation or screen walls.
- F. **Intersections:** Street intersections shall be as nearly at right angles (90-degrees) as possible and no intersection shall be at an angle of less than 60 degrees. To permit the construction of a curb having a desirable radius, property line radii at all street intersections shall not be less than twenty (20) feet. Where the angle of the street intersection is less than 90 degrees, the Commission may require a greater radius.
- G. **Tangents:** A tangent of at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
- H. **Street Jogs:** Street jogs with centerline offsets of less than one hundred twenty five (125) feet shall not be allowed.
- I. **Dead End Streets**
1. Minor terminal streets or courts designed to have one end permanently closed shall be no more than eight hundred (800) feet long, unless necessitated by topography. They shall be provided at the closed end with a turnaround having an outside roadway diameter of at least one hundred (100) feet. The Commission may approve alternate designs such as the "T" or "Y" back-around type.
 2. Where, in the opinion of the Commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended to the boundary of such property. Such dead-end streets shall be provided with a

temporary turn-around having a finished roadway diameter of at least eighty (80) feet.

- J. **Private Streets & Reserve Strips:** There shall be no private streets platted in any subdivision, except in Planned Development (PD) districts. Every subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips or easements controlling access to streets, except where the control of such strips is definitely placed with the City under conditions approved by the Commission.
- K. **Drainage:** All streets and roads shall be designed to accommodate the 25-year storm event without overtopping the curb and gutter. Excess runoff shall be held on-site in storm water retention ponds. There shall be no blocking of natural drainage areas.
- L. **Streets Names:** Any proposed street that is obviously in alignment with, or an extension of another existing and named street, shall bear the name of the existing street. In no case shall the name for a proposed street duplicate the name of an existing street within Rio Communities, regardless of its use (e.g. whether distinguished by Avenue, Boulevard, Drive, Place, Court or similar). Utilizing the indexed list of street names on file, the Commission can assist the subdivider in avoiding duplication. The Commission shall have the authority to approve or change a street name.
- M. **Alleys:** Alleys shall be provided at the rear of all lots used for business purposes and shall be provided in residential blocks except where the Commission determines it is not feasible due to topography, or where the developer will have all utilities placed underground. Alleys shall be a minimum of twenty (20) feet in width and may have an asphalt or concrete driving surface, but shall, at a minimum, have a six (6) inch thick base course surface from edge to edge of driving surface.
- N. **Sidewalks**
 - 1. **Residential:** Residential lots within the City-limits, regardless of size, and residential lots outside the City limits of one-half (1/2) acre or less in size, shall have concrete sidewalks constructed a minimum of four (4) feet wide and four (4) inches thick. Sidewalks shall be placed directly adjacent to the back of curb and gutter or, directly adjacent to the property line within the right-of-way, and the location of sidewalks shall be consistent throughout the proposed development. Where a variance is approved from the required provision of

sidewalks, an ADA compliant alternative route is required to the nearest bus stop or school.

2. **Commercial:** Commercial lots shall have sidewalks a minimum of six (6) feet wide and four (4) inches thick within, or adjacent to the right-of-way, or within, or adjacent to, the property line where pedestrian activity is planned. Corners of sidewalks shall be constructed to meet ADA standards, and sidewalks at street intersections shall have ADA compliant ramps and crosswalks. Sidewalks shall be constructed at the time of development and cracked sidewalks shall be replaced prior to issuance of a *Certificate of Occupancy*. Where a variance is approved from the required provision of sidewalks, an ADA compliant alternative route is required.
- O. **Drivepads (Driveways):** Drivepads shall be constructed for all residential and commercial developments. All drivepads shall meet ADA standards, including a 1:48 cross slope and 1:20 running slope in the direction of travel. The drivepad must rise to the level of the top of the curb before tying into existing grades, to ensure storm water run-off or shedding to the roadway.
1. **Residential:** Drivepads for residential development shall be paved with concrete a minimum of six (6) inches thick, or with asphalt at a minimum of four (4) inches thick, and shall be a minimum of twelve (12) feet wide.
 2. **Commercial:** Drivepads for commercial development shall be at a minimum of twenty-four (24) feet wide, and a minimum of forty (40) feet long and a minimum of six (6) inches thick for concrete or four (4) inches thick for asphalt. Main access points for shopping centers shall be a minimum of thirty (30) feet in width.

6-4-3 BLOCKS

A. Length

1. Blocks shall be not less than four hundred (400) feet, nor more than twelve hundred (1,200) feet in length, except as the Commission deems necessary to ensure efficient use of land or desired features of street pattern.
2. In blocks that extend over eight hundred (800) feet in length, the Commission may require one or more public crosswalks of at least ten (10) feet in width and that extend entirely across specified right-of-way at locations deemed necessary.

6-4-4 LOTS

- A. **Arrangement:** In so far as practical, side lot lines shall be at right angles (90-degrees) to straight street lines, or radial to curved street lines. Each lot must front a minimum of seventy (70) feet in width on a platted street, except on cul-de-sacs or loop streets. Easements do not constitute street frontage.
- B. **Minimum Size**
1. **Residential:** The minimum lot size is dependent on zoning. The City's Zoning Ordinance should be consulted when determining lot size. The minimum residential lot size shall not be less than seventy (70) feet wide at the front building setback line nor less than 8,000 square feet (SF) in area.
 2. **Commercial:** The minimum commercial or industrial lot size shall be adequate to provide for off-street service and parking facilities required by the type, use and development contemplated. Platting of individual lots should be avoided in favor of an overall design of the land to be used for such purposes.
- C. **Building Setbacks Lines:** Building setback lines shall comply with the City's Zoning Ordinance. (See Chapter 4: The Zoning Code)

6-4-5 PUBLIC USE AND SERVICE AREA

Due consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as public service areas as determined by the Commission and in accordance with the City's Comprehensive Plan.

- A. **Drainage & Utility Easements:** Drainage and utility easements shall be provided on each side and rear lot lines. The easements shall be designed to adequately provide utilities and drainage for all lots in the proposed subdivision. Where drainage is proposed to cross any lot, the plat shall indicate the size of the pipe necessary to carry the proposed runoff. Each cul-de-sac shall have provisions for a fifteen (15) foot utility easement to prevent dead-end water mains. Easements of the same or a greater width shall be required along the lines of or across lots, where necessary, for the extension of existing or planned utilities.
- B. **Storm Sewers:** When water flow cannot be accommodated with surface drainage, storm sewers may be required. The Commission shall determine, on the basis of the watershed and the probable runoff, the size of storm sewers. In determining

the size of the storm sewers, the Commission may seek technical assistance from any public or private agency, in which case the developer may be assessed a fee to cover the cost of such service.

- C. **Water and Sanitary Sewer Connections:** Extension of and connection to New Mexico Water Company water and sewer system is required. The subdivider shall indicate a connection with such water supply or sanitary sewer system and a water and sanitary sewer connection for each lot with such material size and length as shall be approved by the Commission. A letter is required from New Mexico Water Company certifying that there is sufficient capacity in their system to accommodate the subdivision. If the subdivider chooses to create an alternate system, they should comply with all New Mexico standards and receive written approval by the State of New Mexico Environmental Control and State Engineer.

6-4-6 SUITABILITY OF LAND

The Commission shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public, the site is not suitable for platting and development purposes of the kind proposed, or if the subdivision does not conform to the City's Comprehensive Plan.

6-4-7 LARGE TRACTS OR PARCELS

When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and the logical expansion of further subdivision.

6-4-8 PLANNED DEVELOPMENTS

A Planned Development (PD) that includes large-scale construction of residential and/or commercial structures together with necessary associated drives and ways of access may be approved by the Commission and City Council, although the design of the project does not include standard street lot and subdivision arrangements, if departure from the foregoing standards can be made without destroying their intent. The City may require that a PD be maintained as a private development and the City is not obligated to accept the dedication of roads, utilities and other infrastructure within the development.

6-4-9 FLOOD-PRONE AREAS

Subdivisions within flood hazard areas as defined by the Federal Emergency Management Administration (FEMA) shall meet the requirements of the City Flood Damage Prevention Ordinance.

ARTICLE 5 IMPROVEMENTS

6-5-1 GENERAL PROVISIONS

6-5-2 REQUIRED IMPROVEMENTS

6-5-1 GENERAL PROVISIONS

- A. **Approval of Final Plat:** The Commission shall not approve the final plat for recording unless the subdivider has installed the following improvements specified and required herein, or has provided a financial guarantee as specified in Section 6-7-1.
- B. **Right of Free Access and Inspection:** Any authorized agent of the Commission or the City shall be granted the right of free access to the subdivision at all times for the purpose of inspecting the construction and installation of improvements. Inspection or lack of inspection by the City shall not diminish the obligation of the subdivider to install required improvements in accordance with approved plans and specifications and the requirements of this chapter.
- C. **Changes in Approved Plans and Specifications:** If the Commission identifies conditions or circumstances that emerge during construction that necessitate changes, the Commission may delegate the responsibility for reviewing and approving said changes to a qualified agent of the City. The subdivider shall not proceed with any identified construction changes until obtaining approval by the Commission.
- D. **Filing of Plans:** One set of "as built" plans and specifications certified by a professional engineer of the approved subdivision, shall be filed with the Commission.
- E. **Maintenance of Improvements:** The completion of construction of any improvement shall not obligate the governing authority or the City to maintain said improvement.

6-5-2 REQUIRED IMPROVEMENTS

Every subdivision developer shall be required to install all improvements in accordance with specifications established by the City. In previously platted subdivisions where streets and other improvements were not constructed, the current developer shall install all currently required improvements prior to further subdivision or development of the lots.

A. Monuments

1. Concrete monuments four (4) inches in diameter or square, with a flat top, shall be set at all the exterior boundaries of the subdivision and at angle points of curve in each street. The tops of each the monument shall have an indented cross to identify properly the location and shall be set flush to the finished grade.
2. All other corners and points shall be marked with iron pipe or solid steel rod no less than one-half (1/2) inch in diameter set flush to the finished grade.
3. Upon completion of street improvements, a survey monument will be placed at the following locations:
 - a. Centerline of the street right-of-way at the intersection of two or more streets;
 - b. The centerline of the street right-of-way at **Beginning** (PC) and **Ending Points** (PT) of a curve;
 - c. At the **Point of Intersection** (PT) of a curve if the point of intersection falls within asphalted area of the street and the **Radius Points** of cul-de-sacs.
4. Monuments will be bridge spikes or City-approved alternate material.

B. **Grading:** All streets and alleys shall be graded or filled horizontally to the full width of their rights-of-way by the subdivider or developer. Any deviation from this requirement (e.g. special topographical conditions) shall require special approval by the Commission.

1. **Permit:** A Grading Permit is required before starting any grading.
2. **Preparation:** Before grading, the entire right-of-way area shall be cleared of all trees, stumps, roots, brush and other objectionable materials.
3. **Dust Control:** Wetting shall be employed at all times during the grading process to mitigate blowing dust.
4. **Cuts:** All tree stumps, boulders and other obstructions shall be removed to a depth of two (2) feet below subgrade. Rock, when encountered, shall be scarified to a depth of twelve (12) inches below subgrade.

5. **Fill:** All suitable material from roadway cuts may be used for fill as needed. The fill shall be spread in layers not to exceed six (6) inches loose and compacted in accordance with the New Mexico Department of Transportation (NMDOT) specifications. All excess material shall be removed from the development site.
- C. **Storm Drainage:** On-site detention of storm water shall be required where existing public drainage facilities are insufficient or non-existent. An adequate drainage system shall be provided for proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit full width roadway and the required slopes. The size openings to be provided shall be determined by *Talbot's formula*, but in no case shall the pipe be less than 15 inches in diameter. Cross drains shall be built on straight line and grade and shall be laid on firm base but not on rock. Pipes shall be laid with spigot ends pointing in the direction of the flow and with the ends fitted and matched to provide tight joints and a smooth uniform invert. *Talbot's formula* shall then be used to determine adequate pipe size, but in no case shall the pipe size be less than 15 inches in diameter. The drainage study shall determine existing (historic) flows to and from the site and shall provide for on-site detention of flows that exceed historic flows by means of detention ponds, landscape areas or other water harvesting methods. Detention facilities must be designed to release all flows within a five (5) day period following a storm event. In addition, the following shall be required:
1. On-site detention facilities shall, at a minimum, be designed to accommodate the 25-year, 24-hour storm event as defined by the National Oceanic and atmospheric Administration (NOAA) Atlas 14, Volume I for New Mexico.
 2. Drainage calculations and design of such facilities shall be certified by a Professional Engineer licensed in the State of New Mexico.
 3. The methodology used to compute storm water runoff depends on the size of the drainage basin and/or lot area:
 - a. For drainage basins and/or lot area that is less than or equal to five (5) acres, the *Rational Method* shall be used. Intensity values will be derived from the City of Rio Communities' Intensity-Duration-Frequency Curve Spreadsheet or the one closest to Rio Communities.
 - b. For drainage basins and/or lot area that are greater than five (5) acres:
 - 1) New Mexico Department of Transportation (Current Method).

- 2) City of Albuquerque Development Process Manual (DPM)
 - 3) LAHYMO (latest version).
 - 4) HEC-RAS (latest version).
- c. The following assumptions shall be used for each method:
- 1) NEW MEXICO shall be specified as the LOCATION.
 - 2) A Type 2 rainfall distribution shall be used.
 - 3) The minimum Time of Concentration (TC) for contributing.

D. Roadway Improvements

1. **Streets:** All streets designated and shown on the final plat shall be graded and constructed in accordance with the standard specifications established by the City.
2. **Standards:** Higher standards than those required by the City's standard specifications may be required by the Commission to provide for unusual soil conditions, extraordinary traffic volume or other abnormal conditions.
3. **Shoulders:** All shoulders, side slopes, and ditches shall be prepared in compliance with the City's standard specifications.
4. **Curbs:** All subdivisions within the City limits approved after the date of approval of this chapter shall have curb and gutter that meet the minimum standard industry specifications. All subdivisions with lots of one-half acre or less in the extraterritorial zone (two-miles from the city limits) approved after the date of approval of this chapter shall have curb and gutter. The subdivider shall install curbs of no lower classification than machine-formed concrete extruded standard, stand up, curb and gutter.

E. **Installation of Utilities:** After grading is completed and approved, and before any base is applied, all underground work (e.g. water and gas mains), and all service connections shall be installed completely throughout the length of the road and across the flat section. No underground utilities shall be installed in any alley.

1. **Water Supply System:** Water mains properly connected to New Mexico Public water supply system shall be constructed in such manner as to adequately serve all lots shown on the subdivision plat for both domestic use and fire

protection. The size of water mains, the location and type of valves and hydrants, the amount of soil cover and the pipes and other features of the installation shall be approved by the Commission upon the recommendation of the applicable inspection agencies and shall conform to acceptable industry standards of good practice for public water systems.

2. **Sanitary Sewers:** All sanitary sewer systems in new subdivisions within the corporate limits of the City shall be constructed in compliance with the City's minimum standards, and any applicable State or Federal regulations. New individual septic systems are not permitted within the City limits. Each sanitary sewer system shall be inspected during the construction by an authorized agent to insure minimum standards are met.

ARTICLE 6 OPEN SPACES

- 6-6-1 PURPOSE & DEVELOPMENT
- 6-6-2 DESIGNATION OF LAND FOR OPEN SPACES
- 6-6-3 OPEN SPACE DESIGN LOCATION & USE
- 6-6-4 OPEN SPACE DEDICATION OR RESERVATION
- 6-6-5 OPEN SPACE MAINTENANCE
- 6-6-6 FEE-IN-LIEU
- 6-6-7 MITIGATION PROGRAM
- 6-6-8 STANDARD FOR PROPERTY TO BE DONATED
- 6-6-9 STANDARDS FOR DEDICATION OF LAND
- 6-6-10 ESTATE LOT SUBDIVISIONS
- 6-6-11 CONSERVATION DESIGN FOR MAJOR SUBDIVISIONS
- 6-6-12 OPEN SPACE DESIGN, LOCATION, & USE
- 6-6-13 DESIGN PROCEDURE

6-6-1 PURPOSE & DEVELOPMENT

- A. **Purpose:** This section seeks to achieve the goal of preserving land for shared recreational opportunities, preferably in a natural or semi-natural state, in perpetuity. As anticipation of residential subdivisions continues in the City of Rio Communities, the need for open spaces and recreational opportunities will increase. These standards are provided to assure that all residents of Rio Communities have access to conveniently located and meaningful open spaces.
- B. **Objectives:** Objectives of the open space standards in this section are primarily related to the provision of recreational opportunities, but open space can also serve environmental, scenic, and agricultural purposes and provide habitat for wildlife.
- C. **Options:** Recognizing that one approach does not work for all situations, the standards set forth below provide options for the provision of open space in major subdivisions with more than 7 lots. Persons wishing to subdivide property should determine which option would work best for them and prepare their subdivision plat in compliance with the requirements of that option.

6-6-2 DESIGNATION OF LAND FOR OPEN SPACES

- A. Open space areas as required by the table below must be identified on subdivision plats. Areas designated as open space shall be maintained as open space and shall not be developed for purposes other than for recreation, or as stated above in Section 6-6-1-B.

- B. Maintenance of the open space shall be the responsibility of the subdivider or other entity created for this purpose (see Section 6-6-5 below).
- C. A percentage of the lot area shall be designated as open space as required by Table 6-1 below. Determining the amount of open space required the acreage of all lots, excluding road rights-of-way, and easements, shall be totaled. The required open space shall be a percentage of this total as required by Table 6-1. Land to be designated as open space shall meet the standards set forth in Section 6-6-3 below. In addition to the lands recommended below, any land designated as a future greenway on any official plan adopted by the City shall be designated as open space. The land to be designated as open space must be approved by the Commission as part of the subdivision preliminary plat approval process.

Table 6-1
Open Space Requirements

Number of Lots	Open Space Requirement
Less than 8	None
8 – 20	10% of the total lot area
21 – 50	15% of the total lot area
More than 51	20% of the total lot area

Note: Total lot area excludes road right-of-ways and easements

6-6-3 OPEN SPACE DESIGN, LOCATION & USE

- A. The following areas within the proposed subdivision are optimal considerations for the preservation of open space and shall be given the highest priority for designation as open space on the plat of any major subdivision:
 1. Designated floodways and special flood hazard areas identified on the Flood Insurance Rate Maps for Rio Communities as prepared by the Federal Emergency Management Agency (FEMA).
 2. Natural watercourses and any adjoining areas required to be maintained in a natural vegetated and unaltered state.
 3. Steep slopes or areas adjacent to rivers, creeks, streams, and other water bodies that may serve as buffers for the water bodies.

4. Any environmentally sensitive areas where development might threaten water quality or ecosystems (e.g., watershed buffers, groundwater recharge areas).
 5. Any identified important historic resources (e.g., homesteads, mills, barns, archeological sites) identified from a local archeological or architectural survey or an individual site survey.
- B. Open spaces should provide active and/or passive outdoor recreation opportunities, either for the general public, or for the subdivision's residents or employees and their guests, provided that all standards as set forth in applicable local, state, and federal ordinances and regulations for use of these areas are followed.
- C. Open space locations and uses shall be approved by the Commission during the review and approval of the preliminary plat. Tables 6-2 and 6-3 below provide additional information regarding what may be considered as open space.

Table 6-2
What Qualifies as Open Space

Included as Open Space:	Not Included as Open Space:
Wooded, uncleared and undeveloped areas in a natural state that may provide wildlife habitat	Public or private sheds, open or enclosed storage facilities, barns, or similar accessory structures
Recreation areas that alter the natural ground cover (e.g. swimming pools, tennis courts, basketball courts, shuffleboard courts, batting cages), and other uses befitting the intent of this ordinance	Areas for motorized recreational use such as boat ramps and off-road two and four-wheeling trails
Water bodies and streams and their buffers, including trout stream buffers	Any public or private road, driveway, or parking area, whether paved, unpaved, gravel, tile, or brick; right-of-ways and areas reserved for any existing or future road are also excluded
Greenways dedicated to environmental, scenic, or recreational purposes	Solid waste disposal areas (including dumpster location sites)
Lands for passive, non-motorized recreation, including activities such as running/walking, hiking, biking, primitive camping, and similar low-impact outdoor activities	Areas for aboveground utility structures as well as cleared areas for solar panels or telecommunications installations (such as satellite dishes), whether for public or private use
Active recreational facilities including volleyball courts, playing fields, and playgrounds provided they have pervious surfaces	Land that is contaminated with hazardous or toxic waste or materials as defined by state or federal regulations (except land covered by an approved mitigation plan and deemed acceptable to the County)
In the community open space, community amenities such as public decks, plazas, picnic shelters, gazebos, outdoor stages, or similar accessory structures	All other impervious or unnatural ground covers or land uses

Table 6-3
Limits

Included as Open Space	Not Included as Open Space
Limits:	Limits:
No more than 50 percent of area(s) designated as open space may have the natural ground cover substantially altered or converted to a recreational use	On golf courses, natural areas that are a part of the course are considered open space. Unnatural streams, ponds, or water hazards are not considered open space
No more than 50 percent of the net open space shall be covered by permanent water bodies or streams; their buffers shall not be included in the calculation of this 50 percent restriction	A developer or landowner may submit a written request for a waiver from these rules. The request shall come before the Planning Board and be decided upon with a simple majority vote
Impervious surfaces shall not exceed 12% of open space areas	

- D. Sidewalks, as approved by the Commission, shall be provided by the developer, if they lead to a pedestrian destination point, such as a school, park, etc.
- E. The location, size, character, and shape of required open space shall be appropriate to its intended use (e.g. active recreational facilities such as ball and play fields should be located on land that is relatively flat and dry, and designed to be conveniently and safely reached and used by those it is intended to serve).
- F. Individual areas designated as open space areas shall not contain less than 2500 square feet, although smaller areas may be approved by the Commission.
- G. The Commission, in their review of the preliminary plat, shall ensure that open space areas are conveniently located and accessible to all lots. Open space areas shall have connections to subdivision roads and/or trail systems that will permit access by all subdivision residents.
- H. Open space shall be spatially arranged to provide connections among other corresponding open space areas and provide channels for storm water flow and infiltration. When possible, open space shall be arranged so as to connect across property lines. Natural areas in conservation subdivisions should connect to adjacent areas of open space and existing habitat on surrounding properties. Open space areas should maintain a minimum fifty (50) foot width for the entire extent of the open space, except for trails or other connections between open space areas.

6-6-4 OPEN SPACE DEDICATION OR RESERVATION

Open space shall be dedicated or reserved in accordance with the standards contained herein.

- A. To meet the requirements of this section, land designated as open space shall be conveyed to a property owners' association or similar legal entity or to a public agency or nonprofit organization that is organized for, capable of, and willing to accept responsibility for managing the open space for its intended purpose and that will ensure subdivision property owners access to and use of the open space.
- B. Each dedicated or reserved open space parcel shall be shown on all subdivision plans and on a record plat recorded with the county register of deeds, with a notation of the area and its intended open space use. The owner of an open space parcel may rededicate or re-reserve the parcel for another open space use allowed under this section by recording a record plat showing the parcel and its new intended open space use.
- C. The open space area, with the prior written consent of the City, shall be designated prior to, or concurrent with, the recording of the final subdivision plat. The method of conservation shall be stated on the submitted subdivision plat(s) and shall be approved by the Commission. Open space shall be dedicated to, owned, and maintained in perpetuity by any of the following:
 - 1. A homeowners' association¹, having acquired fee simple, the title to the open space from the developer, in which membership is mandatory for all homeowners within the development; or
 - 2. A perpetual conservation easement on the open space held and enforced by an established land trust or conservation organization;
 - 3. With prior express written consent, a governmental body (e.g. City of Rio Communities, Valencia County, New Mexico Department of Parks and Recreation, United States Government); or

¹ Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Planning Director and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before any homes are sold, where membership is mandatory for the initial home buyer and any successive buyer, the association is responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space for other than open space or recreational purposes, and shall provide for continued maintenance of any common open space and recreational facilities.

4. Any other structure or entity designed to afford such perpetual maintenance for the open space as may be approved in advance by the Commission.

6-6-5 OPEN SPACE MAINTENANCE

- A. The owner of the open space shall be responsible for maintaining the open space so that it continues to effectively function for its intended use, and any dedication or conveyance of an open space parcel shall provide for such responsibility.
- B. Where the subdivision is located within a watershed protection district, retention of undeveloped open space in a vegetated or natural state shall be ensured by maintenance provisions filed with the county register of deeds, either as part of recorded documentation providing for establishment of a property owners' association or similar legal entity that is to be responsible for maintenance and control of open space or in a maintenance agreement recorded with the property deeds.

6-6-6 FEE-IN-LIEU

- A. For all open space requirements not involving property designated as a greenway on any official plan adopted by the City, a property owner may elect to pay a fee-in-lieu of open space instead of providing the required open space, provided the Commission finds that there is reasonable existing or future open space proximate to the subject parcel, which is available for use by the future residents of the proposed subdivision.
- B. For developments and subdivisions containing more than fifty (50) residential units, the fee-in-lieu option may only be used for up to fifty (50) percent of the open space requirements in order to ensure that these larger projects provide on-site open space for their residents.
- C. This fee shall be calculated by using the *pro rata* value of the designated property relative to the value of the entire site to be developed using tax appraisal data; for properties covered by agricultural or other exemptions, the City may utilize a separate appraisal method in its sole discretion. Funds collected in this manner shall be maintained in a separate account and shall be used to purchase property, or to enhance recreational use of property, or to implement projects identified in the City's Comprehensive Plan, provided such features are reasonably proximate to the site(s) from which the funds are collected (located in the same County Commissioner district as the subdivision providing the fee in lieu).

- D. Where practical, the collected fees for each project shall be designated for specific parks and recreation acquisitions and/or enhancements by the City. The use of the fee in lieu option, and the amount of the fee, shall be approved by the Planning Board as part of the subdivision preliminary plat review.

6-6-7 MITIGATION PROGRAM

- A. For all open space requirements not involving property designated as a **greenway** on any official plan adopted by the City, a property owner may elect to donate property of equal value located in any area of the City to a program that would preserve it as public open space accessible to all residents of and visitors to Rio Communities in lieu of providing open space within the proposed development.
- B. The value of the property required for open space shall be calculated by using the *pro rata* value of the designated property relative to the value of the entire site to be developed using tax appraisal data. The value of the property to be donated shall be calculated in the same way. The value of properties covered by agricultural or other exemptions may be calculated by the City using a separate appraisal method at its sole discretion.

6-6-8 STANDARD FOR PROPERTY TO BE DONATED

Property to be donated to the City in lieu of dedicating open space within a subdivision shall meet the following standards:

- A. The property shall be maintained as public open space, with a written agreement guaranteeing the preservation of the open space.
- B. The property must be donated to a unit of government, public agency, or nonprofit organization that is organized for, capable of, and willing to accept responsibility for managing the property for its intended purpose as open space and that will ensure City residents and visitors have direct access to and use of the property as public open space.
- C. Direct access to the property by the public must be maintained in perpetuity, with a written agreement guaranteeing direct access by the public.
- D. Donation of the property as mitigation in lieu of providing all or any portion of the required open space within the subdivision must be approved by the Commission.
- E. The property to be donated as mitigation must be identified in an official plan adopted by the City as suitable and desirable for public open space.

6-6-9 STANDARDS FOR DEDICATION OF LAND

- A. Property to be provided as mitigation in lieu of providing open space within a subdivision shall be donated to a public agency or nonprofit organization. Said public agency shall be organized for, capable of, and willing to accept responsibility for managing the property for its intended open space purposes.
- B. The final recorded plat for subdivisions that donate land as mitigation in lieu of providing open space in the subdivision shall have a note stating that land has been donated as mitigation and providing the acreage, location, and deed reference of the property donated. The standards set forth in Section 6-6-4 above for dedication of open space shall be met when donating land as mitigation in lieu of providing open space within a subdivision.

6-6-10 ESTATE LOT SUBDIVISIONS

Estate lot subdivisions may be developed as an alternative to the open space requirements. In addition to other applicable standards of this Ordinance and other applicable regulations, estate lot subdivisions shall comply with the standards contained in this section.

- A. **Minimum Standards:** Each lot within an estate lot subdivision shall contain at least three (3) acres of land area.
- B. **Maximum Disturbed Area:** No more than thirty-three (33) percent of the area of a lot within an estate lot subdivision may be permanently cleared of natural vegetation or otherwise disturbed. A greater area may be cleared of natural vegetation provided that any portion greater than thirty-three (33) percent of the lot area is re-vegetated in accordance with a landscape plan approved by the Commission. Vegetation shall not be removed from those areas identified in Section 6-6-3 above, unless approved by the Commission.
- C. **Maximum Impervious Surface:** No more than fifteen (15) percent of the area of a lot within an estate lot subdivision may be covered with impervious (hardened) surfaces.
- D. **Protection of Primary Conservation Areas:** Optimal open space areas, as specified in Section 6-6-3, above, shall be protected in accordance with the standards of this Ordinance with the exception that such areas need not be included within the open space of the subdivision and may be included within the boundaries of an estate lot.

- E. **Plats and Restrictive Covenants:** The plat of an estate lot subdivision shall bear a notation identifying the maximum disturbed area, the maximum impervious surface, any area protected for primary conservation areas, and any restrictive covenants so limiting the use and/or development of any such lot. The plat shall be recorded in the Office of the Valencia County Clerk. However, any restrictive covenants shall be reviewed and approved by the Commission prior to recordation.

6-6-11 CONSERVATION DESIGN FOR MAJOR SUBDIVISIONS

- A. **Purpose:** Provide for a subdivision design that is more efficient and better suited to the natural features of the land, or would blend into the character of a rural area. Conservation subdivisions shall be designed with development areas situated on those parts of the subdivision site best suited to accommodate development with the least adverse impact. Conservation design allows smaller and less costly networks of roads and utilities, encourages closer-knit and potentially safer neighborhoods, preserves sensitive farmland, woodlands, scenic views and open space, and reduces the amount of impervious surface and resulting storm water runoff. The open space provided by conservation design can be used to provide recreational opportunities for the subdivision's residents or employees, to conserve and protect significant natural areas and environmentally sensitive areas, or conserve important historic resources.
- B. **Required Open Space:** Land within the subdivision site that is not dedicated to lots or right-of-ways, or parcels devoted to accommodating necessary roads and utilities, shall be in one or more connected parcels dedicated or reserved as permanent open space. Lands identified as optimal conservation areas pursuant to Section 6-6-12A below, shall be deemed permanent open space in accordance with this section.
 - 1. When optimal conservation areas do not equal or exceed twenty (20) percent of the land area of the subdivision, additional open space shall be designated so that at least twenty (20) percent of the area of the subdivision is made permanent open space.
 - 2. Subdivisions within Commercial Area intended for commercial uses shall be exempt from the open space requirement contained herein, but shall comply with the requirements for preservation of water areas.

6-6-12 OPEN SPACE DESIGN, LOCATION, & USE

- A. The following areas are considered optimal conservation areas and shall be designated as open space on the plat of any conservation subdivision as necessary to meet the required 20 percent of land area:
1. Designated floodways and special flood hazard areas identified as part of a flood insurance study prepared by the Federal Emergency Management Agency (FEMA).
 2. Natural watercourses and any adjoining areas required to be maintained in a natural vegetated and unaltered state by this Ordinance or other applicable regulations.
 3. Any environmentally sensitive areas where development might threaten water quality or ecosystems (e.g., watershed buffers, groundwater recharge areas).
 4. Any identified important historic resources (e.g., homesteads, mills, barns, archeological sites) identified from a local archeological or architectural survey or an individual site survey.
 5. Steep slopes (those exceeding 30 percent).
 6. Any identified sensitive natural area as defined herein,
 7. Other areas specified in Section 6-6-2, above
- B. Open space may be used to provide active and/or passive outdoor recreation opportunities, either for the general public or for the subdivision's residents or employees and their guests provided that all standards as set forth in applicable local, state, and federal ordinances and regulations for use of these areas are followed.
- C. Impervious surfaces in required open space are limited to ten (10) percent of the open space not contained within the optimal conservation area.
1. This provision does not preclude a membership requirement or monetary charge for use of recreation facilities, such as a golf, swim, or tennis club, as long as subdivision residents have an opportunity to join the club or pay to use club facilities.

- D. Sidewalks, as approved by the Commission, shall be provided by the developer, if they lead to a pedestrian destination point, such as a school, park, etc.
- E. The location, size, character, and shape of required open space shall be appropriate to its intended use (e.g. active recreational facilities such as ball and play fields should be located on land that is relatively flat and dry, and designed to be conveniently and safely reached and used by those it is intended to serve).

6-6-13 DESIGN PROCEDURE

The following conservation design procedures shall be used in evaluating major subdivision applications. However, recognizing the variability of site conditions, and that resources may vary widely by importance, when evaluating the layout of a site, the following evaluation criteria will be considered in determining the site's features, thus allowing for site design flexibility.

- A. **Existing features & site analysis:** An existing features and site analysis map shall be submitted to the Commission. The map shall indicate all features that exist on the subject site as described in this section.
- B. **Identification of Open Space Conservation Areas:** Open space areas shall be identified and classified as open space areas based upon the following:
 - 1. The open space shall be reasonably contiguous and shall abut existing open space on adjacent sites.
 - 2. Wetlands, flood hazard areas and natural watercourses with associated buffers shall not be cleared, filled or graded except as authorized by state, federal and other applicable regulations and as may be approved by the Commission. Water features shall constitute no more than 50 percent of the open space area.
 - 3. Dwellings shall be located in unwooded parts of the site to prevent unnecessary clearing practices. Exceptions may be made when a site investigation by Commission staff reveals all or parts of wooded areas are not worth saving due to tree decay/disease or unsightly overgrowth.
 - 4. The impacts on larger woodlands over five acres shall be minimized as much as practical.
 - 5. Where farmland preservation is the goal of a site design, dwellings shall be located away from active farming areas, as is practical.

6. Where preserving scenic views is the goal of a site design, such scenic views should remain unblocked and uninterrupted. In wooded areas, where enclosure (e.g. a tree canopy) is a feature to be maintained, a no-cut and no-build buffer shall be considered along the public roadway.
7. Where historic or archeological preservation is the goal of a site design, new streets, driveways, fences and/or utilities shall not interfere with the historic site. Building designs of the new homes shall reflect the qualities and designs of the historic buildings, as much as is practical.
8. Where power line right-of-ways are proposed to be included as part of the open space, the right-of-way shall not exceed fifty (50) percent of the required permanent open space.

ARTICLE 7 FINANCIAL RESPONSIBILITIES

6-7-1 FINANCIAL GUARANTEES

A. General Provisions

Financial guarantees covering all improvements required by this chapter shall be a prerequisite to Commission action on the application for final plat approval. The subdivider shall submit such guarantees to the Commission and the City Council in accordance with the requirements of this section.

B. Certification of Construction

In subdivisions where the subdivider completes the construction and installation of all required improvements, the subdivider shall file with the Commission written certification by a New Mexico approved professional engineer, affirming improvements have been completed according to the final plat, design drawings, and specifications submitted, and in accordance with the requirements of this chapter.

C. Performance Bond

Prior to completion of any or all required improvements by the subdivider, the subdivider may post a performance bond with the City Clerk guaranteeing the completion of said improvements in compliance with the following requirements:

1. The City shall have the right to refuse a performance bond for any and/or all required improvements and require construction and installation thereof by the subdivider.
2. Where accepted by the City, the performance bond shall:
 - a. Issued to the City of Rio Communities;
 - b. Be in an amount equal to 100 percent of the cost, as estimated by the City, of any improvements that have not been constructed, installed and completed in compliance with the requirements of this chapter prior to the posting of said bond, and for which sufficient certification has been furnished in compliance with subsection;
 - c. Be with surety as approved by the City;
 - d. Specify that all required improvements shall be completed in accordance with the requirements of this chapter within a period not to exceed one (1) year from the date of posting of bond; provided, however, that the City may, by proper application and for good cause shown, extend the time of

completion of all or a part of such improvements for such period of time as it deems is in the public interest; and

- e. Run until, and terminate ninety (90) days after, filing certification of completion and acceptance as required in Subsection (b) hereinabove, unless the Commission or City determines that the requirements, standards, and specifications of this chapter applicable to the construction, installation and completion of said improvements have not been met and notified the applicant of such determination by certified mail, in which event the bond shall continue to run until the filing of acceptable proof that standards, requirements, and specifications have been met.
3. In the event that any or all of the required improvements are not completed within the time specified for the bond, the City may let or re-let the contract for the construction, to the amount specified for such improvement(s) in the bond.

D. Repayment

In lieu of construction by the subdivider of any or all required improvements, the subdivider may make payment to the City for the full amount of improvements in compliance with the following requirements below:

1. The City shall have the right to refuse prepayment for any and/or all required improvements and require construction and installation by the subdivider.
2. Where accepted by the City, prepayment shall be in an amount equal to 100 percent of the cost as established by the City of the required improvements that have not been either completed and certified and accepted as provided in Subsection (b) above, or covered by a performance bond as provided in Subsection (c) above.
3. Where prepayment is accepted by the City, the construction and installation of all improvements covered thereby shall be performed by the City. After completion of improvements, any cost in excess of estimate shall be refunded to the developer and any under payment shall be paid by the developer to the City.

E. Bond Funds

Any funds received from the financial guarantees required by this chapter shall be used only for the purpose of making the improvements for which said guarantees were provided.

DEFINITIONS

Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions. For the purpose of this chapter, certain words or terms used are defined as follows:

1. **Abut/Abutting/Adjacent/Adjoining/Contiguous:** Lots or parcels separated by common property lines, lot lines, or an alley, street or other public right-of-way.
2. **Alley:** An unnamed public right-of-way that is designed to serve as a secondary access to the rear or side of any property where the principal frontage is on another street.
3. **Americans with Disabilities Act (ADA):** A civil rights bill passed in 1990 that gives people with disabilities the same protection from discrimination as other minority groups. Title I of the Act prohibits discrimination against qualified applicants and employees on the basis of disability. Title II of the Act prohibits local and state governments from discriminating based on an individual with disabilities.
4. **Appellant:** A person who applies to a higher court or authority for a reversal of the decision of a lower court or authority.
5. **Applicant:** A person submitting an application in accordance with the procedures established in this Code.
6. **Arroyo:** A dry wash or draw that flows only occasionally and in response to rainfall or other water runoff from higher elevations.
7. **Block:** A parcel of land entirely surrounded by streets, highways, a railroad right-of-way, waterways, or by a combination thereof.
8. **Board of Appeals:** An official body of regulatory or governing officials that represent the interests of the City of Rio Communities (e.g. the Planning and Zoning Commission hears appeals to this Ordinance; the City Council hears appeals of the Planning and Zoning Commission decisions).
9. **Building Line:** The line that any structure shall not extend beyond unless specifically permitted. An overhang of up to twenty-four (24) inches is permitted.
10. **City Council:** The legally constituted and elected governing body for the City of Rio Communities, New Mexico.
11. **Channel:** Any arroyo, stream, wash, swale, gully, ditch, diversion, or watercourse, including man-made facilities or barrier that conveys storm runoff.
12. **City Administrator:** The chief administrative officer of the City or their designee.
13. **City Engineer:** A person designated by the City Administrator and certified in the State of New Mexico as a Professional Engineer.
14. **Code Enforcement Officer:** The person, office or department designated by the City Administrator to enforce any provisions of any City code.
15. **Commission:** The City of Rio Communities Planning and Zoning Commission.
16. **Commission Designee:** The City Administrator or their designee.
17. **Comprehensive Plan:** That document or documents adopted by the City Council as the City of Rio Communities Comprehensive Plan or portions thereof.

18. **Design Standards:** Specific criteria and limitations placed on development that is intended to protect the public health, safety, and welfare of the community, and to enhance the aesthetic value of a development. Design standards may specify criteria for architectural, engineering, landscape, and other features of a proposed development.
19. **Developer:** The legal or beneficial owner of a lot or of any land included in a proposed development; the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.
20. **Development:** A planning or construction project that involves substantial property improvement and, usually a change in the character of land use within the site; the act of using land for building or interactive purposes.
21. **Deviation, Minor:** A deviation from this Subdivision Ordinance is minor if it has no discernible impact on the neighboring properties, the general public, or those intended to occupy or use the proposed subdivision. Minor deviations may be approved by the Commission.
22. **Deviation, Substantial or Variance:** A deviation from this Subdivision Ordinance is substantial if it has a discernible impact on the neighboring properties, the general public, or those intended to occupy or use the proposed subdivision. Substantial deviations may only be approved by the Commission or the City Council.
23. **Director of Public Works:** The City Administrator or their designee.
24. **Discharge:** Allowing, causing or maintaining the abandonment, depositing, dumping, emitting, emptying, injecting, leaching, leaking, migrating, pouring, pumping or spilling of wastes, leachate, oil or any other water contaminant.
25. **Downstream Capacity:** The ability of downstream drainage facilities or construction to accept and safely convey runoff generated upstream.
26. **Drainage and Grading Permit:** A permit issued jointly by the City of Rio Communities Floodplain Manager and the City Manager in accordance with federal, state, and local regulations, which allows for the excavating, filling, grubbing, grading, or other such earth removal or relocation activity at a specified location, and for a specified period of time.
27. **Drainage Way:** Any path of concentrated flow, or any depression, natural or man-made, into which surface water flows along a defined course. *Watercourse* is typically used for larger drainage ways. *Channel* is a more general term.
28. **Drivepad (Driveway):** A paved area used for ingress or egress of vehicles that allows access from a street to a building or other structure on a lot.
29. **Dwelling, Multi-family:** A building or series of buildings on the same lot or portions thereof, used or designed as dwelling for two (2) or more families living independently of each other with the number of families in residence not exceeding the number of dwelling units provided. *Multiple-family* and *multifamily* are synonymously and used interchangeably throughout this chapter.
30. **Dwelling, Single-family:** A building designed as a dwelling for one (1) family.
31. **Easement:** A right of use over the property of another.
32. **Effective date:** The date this Code becomes effective.

33. **Engineer:** A registered professional engineer in good standing with the New Mexico Board of Registration for Engineers and Surveyors.
34. **Erosion:** The movement of soil due to wind or water.
35. **Erosion control:** Those best management practices used to prevent or reduce erosion or sedimentation that is necessary when ground disturbances occur.
36. **Excavation:** Digging and removing earth by mechanical means.
37. **Extra-territorial Zoning Jurisdiction:** An area within two (2) miles of the City limits where extraterritorial zoning applies.
38. **Fill:** The placement of material such as soil or rock to replace existing material, or to create an elevated embankment. Fill also refers to the material that is placed.
39. **Flag Lot:** A lot meeting minimum lot frontage requirements and where access to a public or private street is provided by means of a long, narrow driveway between abutting lots.
40. **French Drain:** A ditch filled with gravel or rock that redirects surface and ground water away from an area. French drains are commonly used to prevent ground and surface water from penetrating or damaging building foundations. Alternatively, the French drain technique may be used to distribute water that flows from the outlet of a typical septic tank sewage treatment system. French drains are also used behind retaining walls to relieve ground water pressure. Also called *Drain Tile, Land Drain, or Dry Well*.
41. **Frontage:** The distance measured along a right-of-way, property line, or access easement.
42. **Frontage, Street:** The distance between the side property lines of a lot as measured along the street property line or the street right-of-way line.
43. **Greenway:** A belt of land intended exclusively for recreational or pedestrian use rather than a typical street corridor, as well as an emphasis on introducing or maintaining indigenous vegetation in a location where such vegetation is otherwise lacking. Some greenways include community gardens or park-style landscaping of trees and shrubs. They also tend to have a mostly contiguous pathway.
44. **Group Development:** Two (2) or more buildings that are: 1) Devoted to a common or related use; and 2) Constructed on a single lot in single or joint ownership; and 3) Made a part of an integrated industrial, commercial, residential or public project, according to a plan for development under specific requirements.
45. **Grading:** Any movement of rock, soil or vegetation by artificial means to include any or all of the following acts: clearing, excavating, leveling of land, grubbing, or placement of fill material.
46. **Individual Sewage Disposal System:** See Septic System.
47. **Interpretation:** Determination or explanation regarding the meaning of a provision or provisions contained in this Code.

48. **Lot:** A portion of a legally platted subdivision that is shown on the records of the County Clerk as a lot, tract, or parcel of land, and held in separate ownership. A portion of land that was subdivided from other land in accordance with the then existing zoning and subdivision requirements.
49. **Lot Area, Gross:** A measurement of the total area contained within the boundaries of a lot expressed in square feet, acres, or other appropriate units, prior to the deduction of area for streets, alleys, easements, or other public spaces.
50. **Lot Area, Net:** A measurement of the total area contained within the boundaries of a lot expressed in square feet, acres, or other appropriate units, after the deduction of area for streets, alley, easements, or other public spaces.
51. **Lot, Corner:** A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees.
52. **Lot, Depth:** The horizontal distance between the front and rear lot lines.
53. **Lot, Double Frontage:** A lot having a frontage on two (2) nonintersecting streets as distinguished from a corner.
54. **Majority, Simple:** More than fifty (50) percent of the voting members seated for the vote.
55. **Majority, Super:** More than fifty (50) percent of the designated voting members of the decision making body.
56. **May:** Is optional but not mandatory.
57. **Mobile Home Park:** A parcel or lot designed and developed for long-term residential use and intended for rent or lease where the residents live in mobile homes or manufactured homes exclusively.
58. **Mobile Home Subdivision:** A subdivision designed and developed with individual lots for long-term residential use and intended for sale where residents are in mobile homes or manufactured homes exclusively.
59. **Owner:** Any person who has legal control of, or title to, real property or a structure.
60. **Parcel:** An abutting area of land containing one (1) or more lots in the possession of, owned by, or recorded as the property of a person.
61. **Person:** A firm, association, organization, partnership, trust company, or corporation as well as an individual.
62. **Planning and Platting Jurisdiction:** Territory within the City limits and within a three (3) mile radius of the City limits.
63. **Planning Authority:** The City Council or Planning and Zoning Commission, if established by the City Council.
64. **Planning Director:** The City Administrator or their designee.
65. **Plot:** A map, survey, drawing, or plan certified by a licensed land surveyor containing a description of subdivided land with ties to permanent monuments.
66. **Plat, Final:** A plat of all, or a portion of a subdivision in substantial conformance with the approved preliminary plat, and meeting the requirements for a final plat as determined by the Subdivision Ordinance of the City.

67. **Plat, Preliminary:** A tentative plat of a subdivision, with supporting documentation and data, in substantial conformance with the requirements for a preliminary plat as determined by the Subdivision Ordinance of the City.
68. **Plat, Sketch:** A sketch of a proposed subdivision of sufficient accuracy and detail to be used for the purpose of discussion and classification.
69. **Pro-rate Value:** A determined share to be received or an amount to be paid based on the fractional share of ownership, responsibility, or time used.
70. **Properly Lines:** The lines bounding a lot.
71. **Public Hearing:** A duly advertised hearing open to the public and conducted in accordance with the requirements of this Code and applicable state law that provides an opportunity for interested parties to present their opinions and/or evidence.
72. **Public Meeting:** An informal meeting or other public gathering to discuss a topic or set of topics not requiring formal decision making.
73. **Registered Agent:** In the context of this regulation, a duly licensed professional or person with sufficient subject-matter expertise, to review, evaluate, and approve for accuracy, any architectural, engineering, or construction document, plan or specification.
74. **Reserve Strip:** A narrow parcel of land separating a street from adjacent properties.
75. **Reverse Curve:** A section of the horizontal alignment of a route in which a curve to the left or right is followed immediately by a curve in the opposite direction.
76. **Right-of-way:** Land across which there is an easement or is reserved and dedicated for use as an alley, crosswalk, or street for utilities, or for other public use or access.
77. **Roadway:** That portion of a street right-of-way developed for vehicular traffic.
78. **Sanitary Sewer System:** A system that transports liquid or water-carried wastes from a residence, business, institution, or an industrial establishment; and into which storm, surface, or groundwater are not intentionally admitted; including, but not limited to, a gravity fed system, septic tank, or such other systems that may be appropriate. As of the effective date of this ordinance, new septic systems are not permitted within the City limits.
79. **Septic System:** A subsurface wastewater system consisting of a settling tank and a subsurface disposal field. Also includes septic tanks.
80. **Setback:** An unobstructed, unoccupied, open area measured at its shortest distance to:
 - A. **Street or Front Setback:** The street or front setback shall be the distance between the front building line and the front property line, or street right-of-way line, or street easement whichever is closer. If there is no street right-of-way line, then it shall be the shortest distance between the front building line and the nearest edge of the street or curb, whichever is closer;
 - B. **Side Setback:** The side setback is the distance between the side building line and the side property line;

- C. **Rear Setback:** The rear setback is the distance between the rear building line and the rear property line. **Note:** The City may, at its sole discretion, designate which side of the property is the front, side, and rear.
 - D. **No Yard:** Any setback, or other open space provided around any structure for the purpose of complying with provisions of this Code shall be considered as providing a yard, setback, or open space for any structure on any other lot.
81. **Sidewalk:** A pedestrian walkway with permanent asphalt, brick, concrete or stone surfacing, with a minimum width of four (4) feet in width and is fully in compliance with the Americans with Disabilities Act (ADA).
 82. **Shall:** Is always mandatory.
 83. **Shared Access:** Joint use of a curb cut or drive aisle for use by more than one building, or property.
 84. **Slope:** The ratio of vertical distance to horizontal distance (rise over run).
 85. **Storm Sewer:** A sewer that carries storm and surface waters and drainage, but excludes wastewater, sewage and industrial liquid wastes other than unpolluted cooling water.
 86. **Street:** A dedicated public way for vehicular traffic, whether designated as an avenue, boulevard, thoroughfare, road, highway, expressway, lane, drive, alley or any other public way.
 87. **Street, Alley:** A minor public way used primarily for service access to the back or side of properties otherwise abutting on a street.
 88. **Street, Arterial:** Those streets so designated and designed to carry high traffic volumes or to function as major thoroughfares.
 89. **Street, Collector:** Those streets so designated and designed to carry moderate traffic volumes and function as connections between residential streets and arterial streets.
 90. **Street, Cul-de-sac or Dead End:** Any street having one open end (entrance) only, and is permanently terminated by a vehicle turnaround.
 91. **Street, Frontage:** A street adjacent to an arterial street, separated there from by a dividing strip and providing access to adjacent properties
 92. **Street Jog:** A portion of a street that curves to the left or right before continuing through an intersection.
 93. **Street, Local:** Any street that primarily permits direct access to abutting lands and connects to collector and arterial streets.
 94. **Street, Loop:** Any street that is open at both ends and connected to only one residential street.
 95. **Street, Residential:** Any street designated and designed to carry low traffic volumes primarily through a residential area and neighborhood.
 96. **Street, Rural:** Any street designed to carry very low traffic volumes.
 97. **Structure:** Anything constructed or erected that requires location on the ground or attached to something having a location on the ground. A Structure includes a building, but does not include a tent, camper, vehicle, recreational vehicle, vegetation, or public utility pole or line.

98. **Subdivider:** Any person, firm, corporation or other entity subdividing land within the jurisdiction of this chapter.
99. **Subdivision:** The division of a tract, parcel or lot into two (2) or more lots, building sites, or other divisions, whether immediate or in the future, for the purpose of sale, legacy, or building development; and includes all divisions of land involving a new street, or a change in existing streets, and includes the re-subdivision of land; and where appropriate, relates to the process of subdividing, or to the land or area subdivided.
100. **Surveyor:** A registered land surveyor in good standing with the New Mexico Board of Licensure for Professional Engineers and Surveyors.
101. **Traffic Impact Analysis (TIA):** A technical study performed by a qualified engineer for the purpose of assessing the impact of a proposed facility or development on existing and proposed right-of-ways. The analysis may also assess the impact on safety, intersections, circulation patterns, ingress/egress, traffic loads, parking and loading areas, on-site circulation and vehicles per day, and may set forth mitigation measures to eliminate or substantially reduce such impacts. Also referred to as a *traffic study*.
102. **Used or Occupied:** As applied to any land or building, used or occupied shall be construed to imply that any land or building is in actual use or occupancy, and shall be construed to be used concurrently with the words intended, arranged, or designed.
103. **Use:** The activity or function that actually takes place, or is intended to take place on a parcel.
104. **Utility, Basic:** Any infrastructure service required to be located in, or near the area where the service is provided. Examples include individual customer service lines, storm water retention and retention facilities, telephone exchanges and water and sewage pump stations, but shall not include telecommunication towers. Service may be public or privately provided. Accessory use may include control, monitoring, support and transmission or data equipment.
105. **Utility corridor:** A public or private passageway, to include, an easements for the express purpose of transmitting or transporting communication signals, electricity, gas, oil, sewage, water, or other similar services on a regional level.
106. **Utility, Intermediate:** Any infrastructure service required to be located in, or near the area where the service is provided, but which provides service on a larger scale than basic utility service. Examples include electrical substations, park and ride facilities for mass transit, public and private water treatment facilities, recycling drop-off stations and water towers and reservoirs, but shall not include telecommunication towers. Service may be public or privately provided. Accessory use may include control, monitoring, support and transmission or data equipment.
107. **Variance:** Any substantial deviation from the requirements of this Code.
108. **Vacate:** A formal action taken by the City whereby the public interest in a road, a right of way, or a public service easement is removed (abandoned) and is documented by a duly executed declaration of abandonment or vacation.

109. **Vacation of Plat:** To formally remove a plat from record, as recorded in the office of the Valencia County clerk, a vacation of plat must always be accompanied by replacement re-plat of all parcels associated with the transaction.
110. **Watercourse:** Any arroyo, channel, creek, lake, river, stream, or other body of water having banks and bed through which water flows at least periodically.
111. **Water Supply System:** A system that provides water for domestic use or human consumption.
112. **Yard:** The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance and as further defined herein.
113. **Yard, Front:** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the front building line.
114. **Yard, rear:** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the rear building line.
115. **Yard, side:** An open unoccupied space on the same lot as the building and between the side building line and the side lot line.
116. **Zoning Ordinance:** The officially adopted Zoning Ordinance of the City.