


**City of Rio Communities, New Mexico
ORDINANCE 2018-64**

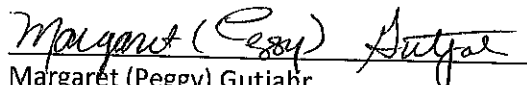
**AN ORDINANCE SUPERSEDING OR REPEALING ORDINANCE NO. 2015-39, DATED:
SEPTEMBER 8, 2015. CHAPTER 06, SUBDIVISION**

**PASSED, APPROVED AND ADOPTED THIS 11TH DAY OF SEPTEMBER 2018 BY THE GOVERNING BODY OF THE
CITY OF RIO COMMUNITIES, NEW MEXICO.**


City of Rio Communities Governing Body



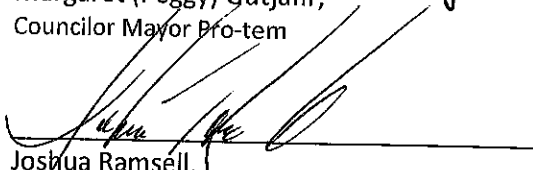
Mark Gwinn,
Mayor



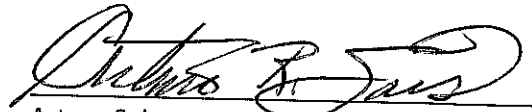
Margaret (Peggy) Gutjahr,
Councilor Mayor Pro-tem



Bill Brown,
Councilor

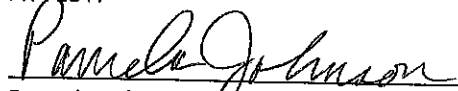


Joshua Ramsell,
Councilor

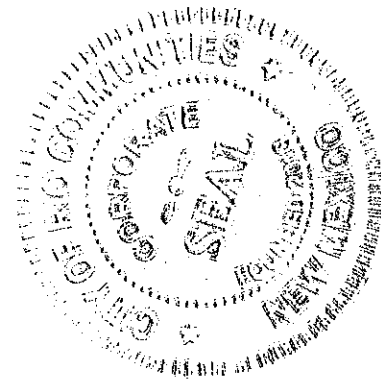


Arturo Sais,
Councilor

ATTEST:



Pamela Johnson, Deputy Clerk/Municipal Clerk Pro-tem



City of Rio Communities, New Mexico

Chapter 6 of Municipal Ordinances

**SUBDIVISIONS
TABLE OF CONTENTS**

CHAPTER 6 SUBDIVISIONS

ARTICLE 1 GENERAL

6-1-1	TITLE	1
6-1-2	ADOPTION	1
6-1-3	STATUTORY COMPLIANCE	2
6-1-4	PURPOSE	2
6-1-5	APPLICATION	2
6-1-6	JURISDICTION	3
6-1-7	HEARING POSTING.....	3
6-1-8	NOTIFICATION OF ADJOINING PROPERTY OWNERS.....	3
6-1-9	VARIANCE APPLICATION	4
6-1-10	AMENDMENTS	6
6-1-11	VIOLATIONS AND PENALTIES	7
6-1-12	INTERPRETATION AND CONFLICTS	7
6-1-13	SEPARABILITY AND VALIDITY	7
6-1-14	REPEAL OF CONFLICTING ORDINANCES	7
6-1-15	EFFECTIVE DATE	7
6-1-16	GRANDFATHER CLAUSE	8

ARTICLE 2 PLAT SUBMISSION AND REVIEW PROCEDURES

6-2-1	ALTERNATE SUMMARY PROCEDURE (ASP): PLANS EXEMPTED FROM STANDARD PROCEDURES.....	9
6-2-2	GENERAL PROCEDURES—APPROVAL OF SUBDIVISION	11
6-2-3	SPECIFIC PROCEDURES— PRE-DEVELOPMENT MEETING.....	12
6-2-4	SPECIFIC PROCEDURES— SKETCH PLAN	12
6-2-5	SPECIFIC PROCEDURES— PRELIMINARY PLAT	12
6-2-6	SPECIFIC PROCEDURES— FINAL PLAT	18

ARTICLE 3 PLAT REQUIREMENTS

6-3-1	SKETCH PLAN.....	21
6-3-2	PRELIMINARY PLAT	21
6-3-3	FINAL PLAT	24

ARTICLE 4 DESIGN STANDARDS	
6-4-1	GENERAL PROVISIONS 27
6-4-2	STREETS 27
6-4-3	BLOCKS 31
6-4-4	LOTS 31
6-4-5	PUBLIC USE AND SERVICE AREAS 32
6-4-6	SUITABILITY OF THE LAND 32
6-4-7	LARGE TRACTS OR PARCELS 33
6-4-8	PLANNED UNIT DEVELOPMENTS 33
6-4-9	FLOOD-PRONE AREAS 33
ARTICLE 5 IMPROVEMENTS	
6-5-1	GENERAL PROVISIONS 34
6-5-2	REQUIRED IMPROVEMENTS 34
ARTICLE 6 OPEN SPACES	
6-6-1	PURPOSE & DEVELOPMENT 39
6-6-2	DESIGNATION OF LAND FOR OPEN SPACES 39
6-6-3	OPEN SPACE DESIGN LOCATION & USE 40
6-6-4	OPEN SPACE DEDICATION OR RESERVATION 43
6-6-5	OPEN SPACE MAINTENANCE 44
6-6-6	FEE-IN-LIEU 44
6-6-7	MITIGATION PROGRAM 45
6-6-8	STANDARD FOR PROPERTY TO BE DONATED 45
6-6-9	STANDARDS FOR DEDICATION OF LAND 46
6-6-10	ESTATE LOT SUBDIVISIONS 46
6-6-11	CONSERVATION DESIGN FOR MAJOR SUBDIVISIONS 47
6-6-12	OPEN SPACE DESIGN, LOCATION & USE 48
6-6-13	DESIGN PROCEDURE 49
ARTICLE 7 FINANCIAL RESPONSIBILITIES	
6-7-1	FINANCIAL GUARANTEES 51
DEFINITIONS 53	
ADDENDUM A: CURB DIAGRAMS 61	
ADDENDUM B: STREET DIAGRAMS 62	

City of Rio Communities, New Mexico

CHAPTER 6 SUBDIVISIONS

- ARTICLE 1 GENERAL
- ARTICLE 2 PLAT SUBMISSION AND REVIEW PROCEDURES
- ARTICLE 3 PLAT REQUIREMENTS
- ARTICLE 4 DESIGN STANDARDS
- ARTICLE 5 IMPROVEMENTS
- ARTICLE 6 DEFINITIONS

ARTICLE 1 GENERAL

- 6-1-1 TITLE
- 6-1-2 ADOPTION
- 6-1-3 STATUTORY COMPLIANCE
- 6-1-4 PURPOSE
- 6-1-5 APPLICATION
- 6-1-6 JURISDICTION
- 6-1-7 HEARING POSTING
- 6-1-8 NOTIFICATION OF ADJOINING PROPERTY OWNERS
- 6-1-9 VARIANCE APPLICATION
- 6-1-10 AMENDMENTS
- 6-1-11 VIOLATIONS AND PENALTIES
- 6-1-12 INTERPRETATION AND CONFLICTS
- 6-1-13 SEPARABILITY AND VALIDITY
- 6-1-14 REPEAL OF CONFLICTING ORDINANCES
- 6-1-15 EFFECTIVE DATE
- 6-1-16 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 sub-dividers be in compliance with Section 3-19-6 and Sections 3-20-1 through 3-20-16 of NMSA, 1978. This ordinance complies with NM § 3-21-6 (2016). Failure of any sub-divider 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 HEARING POSTING

A. PLANNING AND ZONING HEARING POSTING

Commission consideration of the proposed issue shall be conspicuously posted for public scrutiny and comment at six (6) public locations throughout the City and on the cities webpage. After fifteen (15) days of posting, the Planning and Zoning Commission shall have a public hearing and then may vote on the issue. The Commission may approve, approve with conditions, deny, continue or defer the request. If passed, it will be forwarded to the City Council for consideration. In the case of approval, deferral or continuance, the City Council shall make a decision within 90 days of the initial Planning and Zoning hearing.

B. CITY COUNCIL HEARING POSTING

If approved, deferred or continued by the Planning and Zoning Commission, the following procedure should be followed by the City Council. Council consideration of the proposed issue shall be conspicuously posted for public scrutiny and comment at six (6) public locations throughout the City and on the cities webpage. After fifteen (15) days of posting, the City Council shall have a public hearing and then may vote on the issue.

6-1-8 NOTIFICATION OF ADJOINING PROPERTY OWNERS

- A. It shall be the responsibility of the sub-divider to promptly notify, within fifteen (15) days of the scheduled hearing, any landowner whose property is located within one-hundred (100) 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 hearing and a general description of the requested subdivision

action. Failure on the part of the sub-divider to properly post this notification may jeopardize the sub-dividers procedure.

B. Any subdivision request that requires a confirmation by the Planning and Zoning Commission and/or the City Council requires a Public Hearing.

1. If the subdivision covers 1 block or less, certified notification with return receipt requested must be sent to all landowners within 100 feet of the subdivision and those within the sub-division, excluding right-of-ways. If the subdivision is more than 1 block in size, first class notifications must be mailed to all landowners within 100 feet of the subdivision and those within the sub-division, excluding right of ways. Any undelivered mail will be followed by certified notification with return receipt requested. County Treasure records are the final source of all mailing lists. The mailing will be performed by the City staff, but all expenses will be reimbursed by the person requesting the subdivision. NM § 3-21-6 (2016)
2. If the owners of twenty percent or more of the area of the lots and (of) land included in the area proposed to be changed by zoning regulation or within one hundred feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a majority vote of all the members of the governing body of the municipality. NM § 3-21-6 (2016)

6-1-9 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 sub-divider 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 and will be part of a public hearing process.

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. Variance Procedure:** An application for a variance shall be submitted in writing by the sub-divider, on prescribed forms provided by the City, at the time the preliminary plat is filed for consideration by the Commission. Variances may be filed at any time in the approval process.
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 the following:
Section 6-1-9-A.
 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 variance request at its next regularly scheduled meeting, with the following considerations. Follow instructions under 6-1-7-A for posting meeting. Follow instructions on both 6-1-8-A and 6-1-8-B for notifications.
 4. If approved, deferred or continued by the Planning and Zoning Commission,

the following procedure should be followed by the City Council. Follow instructions under 6-1-7-B for posting meeting. Follow instructions on both 6-1-8-A and 6-1-8-B for notifications.

- C Appeal:** Should the Commission deny the variance, the sub-divider/applicant may request an appeal in writing to the Commission or City Council.
1. The sub-divider/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 sub-divider/applicant's written appeal, notify the sub-divider/applicant via certified mail of a rehearing.
 3. If the Commission denies the sub-divider/applicant's written appeal, the sub-divider/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 sub-divider will be notified by certified mail at least five (5) days before the meeting. Posting instructions follow 6-1-7-B. City Council notifications follow 6-1-8-A and 6-1-8-B. City Council majority vote will be final.

6-1-10 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 consider them. Public posting and meeting protocols must be followed for Planning and Zoning Commission meetings and city Council meetings. Both postings must include proposed amendment, the day, time and location of the hearing.

- A** Planning and Zoning public hearing notification of such considerations shall be conspicuously posted six (6) days before the meetings at six (6) public locations throughout the City. Posting on the cities webpage is also required. If amendments are approved by Planning and Zoning vote, it shall be forwarded to the City Council for consideration.
- B** Council consideration of the amendment shall be conspicuously posted for public scrutiny and comment at six (6) public locations throughout the city and on the cities webpage. If the city council approves the amendment(s) posted for public scrutiny, posting will occur. After fifteen (15) days of posting, the City Council will hold a public hearing and then may consider voting on the amendment. If passed, it will become part of the ordinance after ten (10) days.

6-1-11 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.

6-1-12 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.

6-1-13 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.

6-1-14 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.

6-1-15 EFFECTIVE DATE

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

6-1-16 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. Comm*, 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 sub-divider 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 sub-divider shall be notified via certified mail, at least five (5) days before the scheduled meeting.
 2. Follow 6-1-8-A and 6-8-B for notification procedures. Follow 6-1-7-A for posting methods. The Commission may approve, approve with conditions, deny, continue or defer the request.
 3. The sub-divider 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.

4. If the Commission approves the proposed subdivision, the sub-divider 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.
5. 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. If passed, it will be forwarded to the City Council for consideration.
6. 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 sub-divider to file with the Valencia County Clerk's office; and
 - c. The remaining copy will be returned to the sub-divider.
 - d. Approved and signed Mylar will be retained by City Clerk.
7. 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 sub-divider.

F. Sub-dividers 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. The City Council will allow for the appeal to be heard at a public hearing. The city council may approve, approve with conditions, deny, continue or defer the request.
3. Follow 6-1-7-B for posting information. Follow both 6-1-8-A and 6-1-8-B for notification directions.

4. The City Council shall review and make the final decision by majority vote of all of the governing body. NM § 3-21-6 (2016)
- G. Council consideration of Alternate Summary Plat.
1. Follow 6-1-7-B for posting meeting.
 2. Follow 6-1-8-A for posting and 6-1-8-B for notification.
 3. The City Council shall review and make the final decision on the Plat. Follow 6-1-8-B. for instructions. If approved, the mayor and city clerk will sign the mylar and 3 paper copies. If denied, the mayor and city clerk will sign the mylar and 3 paper copies. The words “denied plat” will be added below their signatures.

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.
 1. 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.
 2. In order to secure review and approval of the Commission for a proposed subdivision, the prospective sub-divider (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.

3. On approval of said plat as preliminary plat, the sub-divider 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 sub-divider 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 sub-divider 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 sub-divider (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 sub-divider 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 sub-divider 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 sub-divider 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. Follow 6-1-8-A for notification instructions. The Commission may approve, approve with conditions, deny, continue or defer the request. If passed, it will be forwarded to the City Council for consideration.

- 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. Follow 6-1-7-B for posting procedures. Follow 6-1-8-A and 6-1-8-B for notification protocols.
- E. Contiguous Landowners:** Follow the procedures listed in 6-1-8-A and 6-1-8-B for notification of contiguous landowners. 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 sub-divider shall be responsible for postage.
- F. Contiguous Holdings & Common Ownership:** The sub-divider 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 sub-divider shall pay the applicable fee according to the fee schedule as specified by the City Clerk.
- I. City Council Review & Public Hearings**
 - 1. The City Council shall act upon the preliminary plat within ninety (90) 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 protocol can be found 6-1-8-A and 6-1-8-B. 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 sub-divider 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 Hearing 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 sub-divider 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 sub-divider 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 sub-divider, 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 sub-divider 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 sub-divider 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 sub-divider feels aggrieved by the decision of the Commission, the sub-divider may file a written appeal with the Commission for a variance as described in Section 6-1-7. If the sub-divider 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 sub-divider 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 sub-divider 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 sub-divider shall prepare and submit a final plat to the City Clerk a minimum of fifteen (15) days before a regularly scheduled Planning and Zoning meeting. The Clerk will place the subdivision on the meeting agenda. 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 sub-divider shall provide the City Clerk with an electronic file (in PDF format) of the approved final plat. 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.
4. In either event, one (1) of the two (2) signed copies shall be returned to the sub-divider and the other shall become part of the files of the Council.
5. 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 sub-divider. 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.

6. 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 sub-divider, a notation shall be placed on the plat and approved by the Council.