

SUBDIVISION REGULATIONS

ARTICLE 10.01 GENERAL PROVISIONS*

(Reserved)

ARTICLE 10.02 SUBDIVISION ORDINANCE

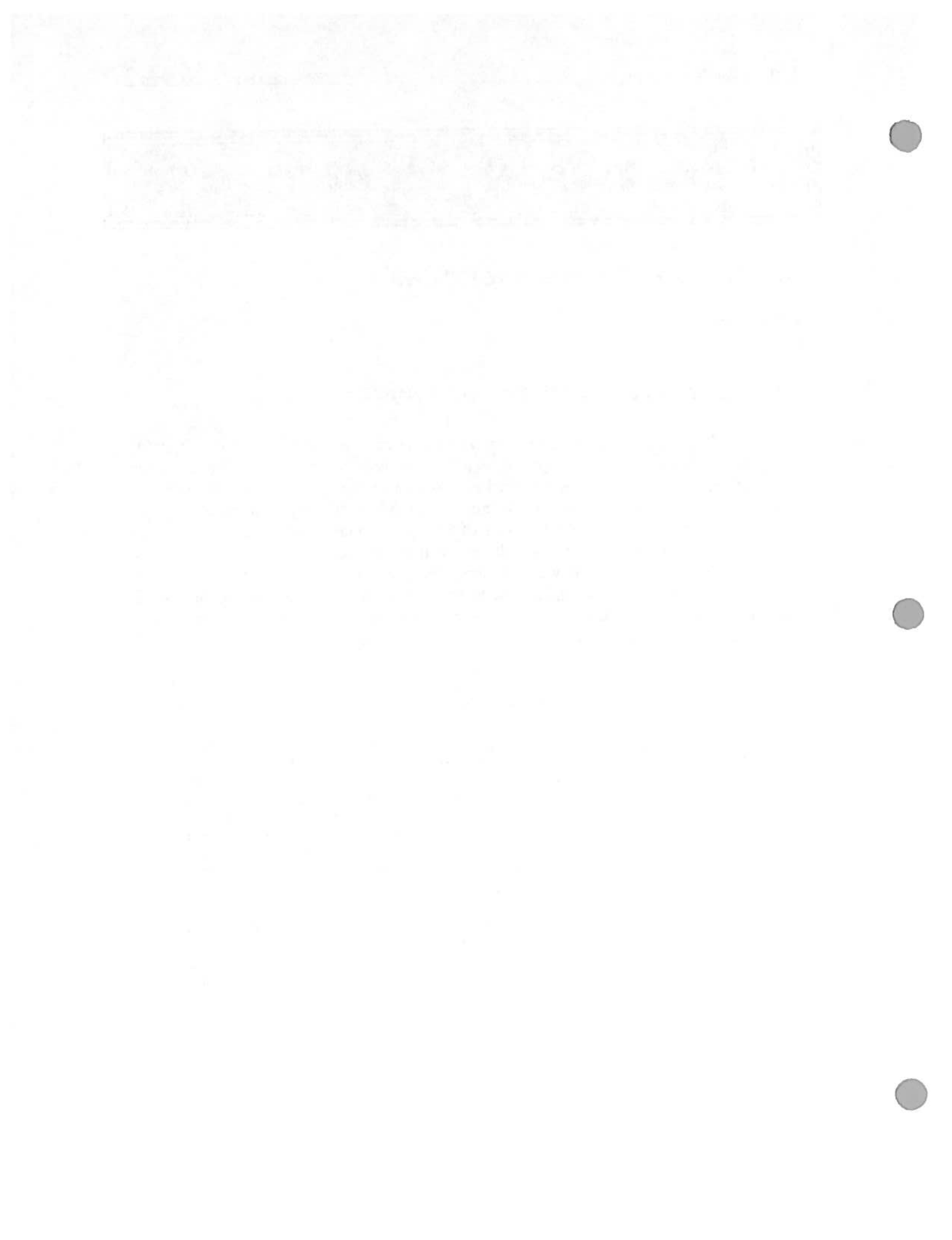
Ordinance 2008-02, the subdivision ordinance of the city, adopted on January 10, 2008, is included at the end of this chapter as exhibit A. Due to the nature of the subdivision ordinance and the technicalities involved in adopting or amending it, such ordinance is printed herein as enacted, with only non-substantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended provisions. The absence of a history note indicates the material is unchanged from the original. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets.

ORDINANCE 2008-02

A SUBDIVISION ORDINANCE REPLACING IN ITS ENTIRETY THE EXISTING SUBDIVISION ORDINANCE OF THE CITY OF LA FERIA, TEXAS WITH A NEW SUBDIVISION ORDINANCE PERTAINING TO SUBDIVISION REGULATIONS FOR THE PLATTING AND DEVELOPING AND SUBDIVISION OF LAND WITHIN THE CORPORATE LIMITS AND WITHIN ITS EXTRATERRITORIAL JURISDICTION: PROVIDING DEFINITIONS AND PROCEDURES; PROVIDING REQUIREMENTS AND REGULATIONS FOR PRELIMINARY AND FINAL PLATS; PROVIDING FOR IMPROVEMENTS FOR ALL SUBDIVISIONS; ESTABLISHING MINIMUM DESIGN STANDARDS AND SPECIFICATIONS; PROVIDING FOR VARIANCES, PROVIDING FOR CITY COMMISSION APPROVAL PRIOR TO THE FILING OF THE FINAL PLAT; PROVIDING A GENERAL PENALTY FOR VIOLATIONS UP TO A MAXIMUM OF FIVE HUNDRED DOLLARS (\$500.00); REPEALING CONFLICTING ORDINANCES; AND PROVIDING A SEVERABILITY CLAUSE AND EFFECTIVE DATE.

* **Charter references**—Duties of urban development department, sec. 3.07; platting of property, sec. 7.01.

State law reference—Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212.



ORDINANCE 2008-02

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LA FERIA, TEXAS:

SECTION 1: INTERPRETATION AND PURPOSE

The purpose of these subdivision regulations are [is] to provide for the orderly, safe, and healthful development of the area within the city and within the area surrounding the city and to promote the health, safety, and general welfare of the community and its surrounding areas. It is the intention of the City Commission that the standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions in the City of La Feria and within its extraterritorial jurisdiction.

SECTION 2: DEFINITIONS AND RULES OF CONSTRUCTION

For the purpose of this ordinance, the following terms, phrases, words, and other derivations shall have the meaning ascribed to them hereafter. Definitions not expressly prescribed herein are construed in accordance with customary usage in municipal planning and engineering practices. Any office referred to in this ordinance by title means the person employed or appointed by the city in that position, or his or her duly authorized representative.

Alley - a minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street;

City - the City of La Feria, Texas;

City Commission - the governing body of the City of La Feria, Texas;

City engineer - The term "city engineer" shall apply only to such registered professional engineer or firm of registered professional consulting engineers that has been specifically designated as such by the city commission to act on behalf of the city on engineering related matters.

Commission - the Texas Commission on Environmental Quality or its successors (formerly the Texas Natural Resource Conservation Commission - TNRCC).

Crosswalk - public right-of-way, which provides pedestrian circulation;

Cul-de-sac - a street having but one (1) outlet to another street, termination of the opposite end by a vehicular turnaround;

Dead-end street - a street, other than a cul-de-sac, with only one (1) outlet;

Dedication - A gift or donation of property by the owner to the City.

Easement: An interest in land granted to the city, to the public generally, and/or to a private utility corporation.

* **Editor's note** - This exhibit contains the city's subdivision ordinance, Ordinance 2008-02, adopted by the city on January 10, 2008. Due to the nature of the subdivision ordinance and the technicalities involved in adopting or amending it, such ordinance is printed herein as enacted, with only non-substantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended provisions. The absence of a history note indicates the material is unchanged from the original. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets.

Developer: An individual, partnership, corporation or governmental entity undertaking the subdivision or improvement of land and other activities covered by these regulations, including the preparation of a subdivision plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider" even though personnel in successive stages of a project may vary.

Engineer - a person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore, or hereafter amended, to practice the profession of engineering;

Extraterritorial jurisdiction: The unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer limits of which are measured outward for such distances as may be stipulated in the Texas Municipal Annexation Act in accordance with the total population of the incorporated city, and in which area, within the terms of the act, the city may enjoin the violation of its subdivision ordinance.

Final plat - (also record plat or filing plat) - the official and authentic map of any given subdivision of land prepared from [from] actual field measurement and staking of all identifiable points by a surveyor or engineer with the subdivision location referenced to a survey corner and all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. Angular measurements and bearings shall be accurate to the nearest minute. Distances shall be accurate to the nearest tenth (10th) of a foot;

Lot - an undivided tract or parcel of land having frontage on a public street and which is, or in the future may be offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed for record;

May - the word "may" is merely directory;

Mobile home - means any structure transportable in one or more sections, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to utilities.

Mobile home park - is a type of development where land is owned under one ownership and individual lots or spaces are leased or rented, with or without mobile homes on them, to other persons for the purposes of placing or maintaining a mobile home thereon. A mobile home park, for these purposes, shall be defined as any lot, tract, or parcel of land where more than one mobile home is located.

Pavement width - the portion of a street available for vehicular or pedestrian traffic. Where curbs are laid, it is the portion between the faces of the curbs;

Person - any individual, association, firm, corporation, governmental agency, or political subdivision;

Planning and Zoning Commission - the appointed Planning and Zoning Commission of the City of La Feria.

Preliminary plat - the phrase "preliminary plat" shall be any of any lot, tract or parcel of land that is not to be recorded for record, but is only a proposed division of land for review and study by the city. It shall include but is not limited to topography and drainage features;

Recreational Vehicle or Travel Trailer - means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer or recreational vehicle by the manufacturer of the trailer and, when factory-equipped for the road, it shall have a body width not exceeding eight feet and a body length not exceeding state maximums.

Recreational Vehicle Park – means any development site, parcel or tract of land designed, maintained or intended to be used for the purpose of providing short-term occupancy of camper vehicle, recreational vehicles, tents or trailers.

Shall - the word “shall” is always mandatory;

Sidewalk: A paved pedestrian way generally located within public street right-of-way, but outside of the roadway, and built in accordance with city specifications.

Street - a public right-of-way, however designated, which provides vehicular access to adjacent land;

- (1) Major thoroughfares (also commonly referred to as arterial streets, primary thoroughfares, etc.) provide vehicular movement from one neighborhood to another, to distant points within the urban area or to freeways or highways leading to other communities;
- (2) Collector streets (also commonly referred to as feeder streets, secondary thoroughfares, etc.) provide vehicular circulation within neighborhoods and from minor streets to major thoroughfares. Due to similarity of traffic volume and wheel loadings, streets through commercial and industrial areas are frequently constructed to the same design as collector streets;
- (3) Local residential streets (also commonly referred to as minor thoroughfares or streets, etc.) are primarily direct vehicular access to abutting residential property;

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work built up or composed of parts joined together in some definite manner.

Subdivision - the word “subdivision” or “addition” shall be any division of any lot, tract, or parcel of land into two (2) or more lots or sites for the purpose of sale, lease, or rental. It also includes the resubdivision or replatting of land, lots, or tracts. Division of land for agricultural purposes, in parcels of five (5) acres or more shall not be included within this definition, unless any such division includes the planning and development of a new street or access easement.

Surveyor - a licensed state land surveyor or a registered public surveyor, as authorized by state statute to practice the profession of surveying;

Utility easement - an interest in land granted to the city, to the public generally, and/or to a private utility corporation, for installing and maintaining utilities across, over[,] on or under private land, together with the right to enter thereon with machinery and vehicles necessary for maintenance of said utilities.

SECTION 3: SPECIAL PROVISIONS

3-1. The city will not permit the installation of septic tanks upon any lot in a subdivision except in accordance with Section 10 of this ordinance.

3-2. No building permit shall be issued by the city for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein or referred to herein have not been complied with in full.

3-3. The city may allow sectional development of an approved final plat, provided that the section of the final plat meets all the requirements of this ordinance in full as though it were a subdivision within itself.

3-4. The city shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved and filed for record; nor in which the standards contained herein, or referred to herein, have not been complied with in full.

3-5. The city shall not authorize any other person nor shall the city itself sell or supply any water or wastewater service within a subdivision for which a final plat has not been approved or filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.

3-6. In behalf of the city, the city attorney shall, when directed by the City Commission, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this ordinance or the standards referred to herein with respect to any violation thereof which occurs within the city or within its extraterritorial jurisdiction.

3-7. The provisions of this ordinance shall not be construed to prohibit the issuance of permits to any lots upon which building exists and was in existence prior to passage of these regulations, or to prohibit the repair, maintenance or installation of any street or public utility services for, to, or abutting any lot or tract where such lot or tract was in existence and the last recorded conveyance of which was prior to passage of these regulations.

3-8. No subdivided land shall be sold or conveyed until the subdivider has received approval of a final plat of the tract and has filed and recorded with the Cameron County Clerk a legally approved plat.

3-9. For residential subdivisions, there shall be no more than one single-family dwelling per lot. This shall be noted on the face of the final plat and included in the language on the deeds and contracts for deeds.

SECTION 4: IMPROVEMENTS GENERALLY

The subdivider shall furnish, install and/or construct the water and sewage systems and the street and drainage facilities necessary for the proper development of the subdivision. All such facilities shall be designed and constructed in accordance with all city ordinances and standards. Where considered necessary by the city, the facilities shall be sized in excess of that dictated by the design criteria in order to provide for future growth and expansion or to conform to the city's master plan.

SECTION 5: PRELIMINARY PLAT

5-1. PRELIMINARY CONFERENCE

Prior to submitting a plat, the subdivider shall be responsible for checking on proper zoning and subdivision regulations and improvements requirements and then consult early and informally with the city manager before formal application of the preliminary plat for its approval in order to save time and money.

5-2. PRELIMINARY PLAT REQUIREMENTS

(a) Plat Prepared by Surveyor, Engineer or Land Planner; Conference - A preliminary plat shall be prepared by a surveyor, engineer, or land planner. The plat shall conform to these subdivision regulations and the city's zoning regulations.

(b) Timing and Copies Required - The subdivider shall submit six (6) blue or black line copies of the preliminary plat to the city manager at least fourteen (14) days prior to the planning and zoning commission meeting at which the plat is to be considered.

(c) Form - The preliminary plat shall be drawn on 24" x 36" at a scale appropriate for that size sheet. The preferred scale is 1" = 100'. In cases of large developments a scale of 1" = 200' may be used if approved by the city manager, but is the smallest scale to be permitted.

(d) Content of Preliminary Plat

- (1) Name and address of the owner, subdivider or developer, engineer, surveyor, or land planner;
- (2) Proposed name of the subdivision;
- (3) Names of adjacent subdivisions or owners of adjacent parcels of unsubdivided land. The platting of adjoining property and streets shall also be shown;
- (4) An accurate boundary survey of the property and a metes and bounds description;
- (5) A north point, scale of plat, and date of preparation;
- (6) The location, dimensions, name, and description of all streets, alleys, easements, lots and other cities proposed within the subdivision. Where the proposed subdivision is a unit of a larger tract proposed for future development, the preliminary plat shall be accompanied by a layout of the entire tract showing the tentative layout of streets, blocks, drainage, and utility improvements. The overall layout, if approved by the planning and zoning commission, shall be attached to the smaller approved subdivision and made a part of the permanent records. Thereafter, plats of subsequent units of such subdivision shall conform to the approved overall layout unless it is amended by the city;
- (7) Contours at intervals of five (5) vertical feet. If contours at that interval do not give adequate terrain description, then the interval will be reduced to two (2) vertical feet or as directed by the city engineer;
- (8) Preliminary drainage proposals including drainage areas affecting the property;
- (9) Existing and proposed utility service to the property;
- (10) Existing public utility easements;
- (11) Any land uses proposed other than single family lots such as schools, parks, church and apartments;
- (12) Number assigned to each lot and number or letter assigned to each block;
- (13) Front building setback lines shown on all lots and sites and side building lines at street intersections;

5-3 PROCESS THE PRELIMINARY PLAT

- (a) Upon receiving six (6) copies of the preliminary plat and the required filing fees, the city manager will inform the subdivider of the time of the next planning and zoning commission meeting at which the preliminary plat will be considered. Upon receipt, the city manager will provide for the review of the plat by the appropriate officials, being the city engineer, water and wastewater superintendent, and any other officials he or she deems appropriate. Two (2) of the six (6) copies will be provided to the city engineer for his or her review. The city engineer will then return one (1) copy back to the city manager with his or her comments and recommendations. The city manager shall also ensure that the preliminary plat is checked against the city's zoning and building regulations. Following the staff review, the preliminary plat will then be placed on the agenda for its consideration of approval by the planning and zoning commission.
- (b) Within thirty (30) days after the preliminary plat is formally filed, the planning and zoning commission shall approve or disapprove such preliminary plat or conditionally approve it with modifications. The conditional approval of the preliminary plat by the planning and zoning commission does not in any manner constitute the acceptance of the subdivision nor the improvement placed therein,

but is merely an authorization to proceed with the preparation of the final plat. The action of the planning and zoning commission shall be noted on two (2) copies of the preliminary plat along with references to any conditions determined and attached thereto. One (1) copy shall be returned to the developer and the other copy retained as a permanent record of the city. Approval of the preliminary plat, if granted, shall be valid for not longer than one (1) year after the date of approval of the preliminary plat unless the final plat has been approved and recorded within the one-year period.

(c) Approval of the preliminary plat does not permit the beginning of any proposed subdivision improvements. No construction work shall begin prior to approval of the final plat of the proposed subdivision by the both planning and zoning commission and the City Commission.

5-4. PRELIMINARY PLAT FILING FEES

The following schedule of fees and charges shall be collected by the city when any preliminary plat is tendered to the city for consideration of approval. Such fees and charges shall accompany the application of the proposed plat and no action of the planning and zoning commission shall be valid until the filing fee has been paid. This fee shall not be refunded to the subdivider should the plat be disapproved.

(a) Inside City Limits:

\$100.00 per plat plus \$1.00 per lot

(b) Outside City Limits in Extraterritorial Jurisdiction:

\$200.00 per plat plus \$1.00 per lot

SECTION 6: FINAL PLAT

6-1 FINAL PLAT REQUIREMENTS

(a) Conformance with Preliminary Plat - The final plat shall conform to the preliminary plat as approved, and incorporating all conditions imposed by the planning and zoning commission.

(b) Timing and Copies Required - The subdivider shall submit one (1) mylar (sepia) copy and ten (10) blue or black line copies of the final plat and one (1) copy of the construction plans to the city manager at least fourteen (14) days prior to the planning and zoning commission meeting at which the final plat is to be considered.

(c) Form - The final plat shall be drawn on 24" x 36" at a scale appropriate for that size sheet, but a 1" = 100' is the smallest scale that will be permitted. Where more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at appropriate scale shall be attached to the plat. If desired by the subdivider and approved by the planning and zoning commission, the final plat may constitute only that portion of the approved preliminary plat, which is proposed to be recorded and developed; however, such portion shall conform to all requirements.

(d) Content of Final Plat

(1) All requirements of preliminary plat;

(2) The exact location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public right-of-way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearings or deflection angles and radii area, and central angle, degree of curvature tangent distance and length of all curves where appropriate;

- (3) The exact location, grade, dimensions, description, and name of all proposed streets, alleys, drainage, rights-of-way, parks, other public areas, reservations, easement or other right-of-way, blocks, lots and other sites within the subdivision with accurate dimensions, bearings or deflection angles and radii area, and central angles, degree of curvature, tangent distance and length of all curves where appropriate;

- (4) Owner's acknowledgment of the dedication to public use of streets, alleys, parks, right-of-ways, easements, and other public places shown on the final plat.

The State of Texas
County of Cameron

I (We), the undersigned, owner(s) of the land shown on this plat and designated herein as the _____ Subdivision to the City of La Feria, Texas and whose name is subscribed hereto, hereby dedicate to the use of the public all streets, alleys, parks, watercourses, drains, easements, water lines, wastewater lines, storm sewers, fire hydrants and public places which are installed or which I (we) will cause to be installed thereon, shown or not shown, if required otherwise to be installed or dedicated under the subdivision approval process of the City of La Feria, all the same for the purposes therein expressed, either on the plat hereof or on the official minutes of the applicable authorities of the City of La Feria.

Owner

- (5) A certification by the engineer or surveyor responsible for the preparation of the final plat and supporting data, attesting to its accuracy and that all survey work around the boundary area as well as within the subdivision shall have an error closure of no more than one foot in five thousand feet (1/5,000') or less;
- (6) All survey monuments shall be shown on the plat.
- (7) All deed restrictions that are to be filed with the plat shall be shown on or submitted separately with the plat;
- (8) Tax certificates from all applicable taxing entities;
- (9) The final plats shall be accompanied by complete sets of construction plans and profiles for all street and drainage improvements and water and sanitary wastewater improvements;
- (10) A waiver of claim for damages against the city occasioned by the establishment of grades or the alteration of the surface of any portion of existing streets and alleys to conform to the grades established in the subdivision;
- (11) The following certifications shall be placed on the final plat:

THE LA FERIA PLANNING & ZONING COMMISSION ON _____, _____
VOTED AFFIRMATIVELY TO RECOMMEND THIS PLAT TO THE CITY
COMMISSION FOR APPROVAL AND FOR FILING OF RECORD.

Chairman, La Feria Planning & Zoning Commission

Date

THE CITY COMMISSION OF THE CITY OF LA FERIA ON _____, _____
VOTED AFFIRMATIVELY TO APPROVE THIS PLAT FOR FILING OR RECORD.

Mayor, City of La Feria

Date

- (12) If the subdivision is "residential," a note containing the following shall be included on the final plat: "No more than one single family residential dwelling per lot is permitted."

(e) Final Engineering Report

The final plat shall be accompanied by an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment service to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the City shall be provided for those unconstructed water supply and distribution facilities and for wastewater collection and treatment facilities, which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under Section 9-3 of this Ordinance, the schedule shall include the start dates and completion dates.

(1) Public water systems.

- (A) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement in substantially the form attached in Appendix B to this ordinance between the subdivider and the retail public utility to the effect that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years and that the subdivider has provided for the payment of costs or fees for the connection of each individual lot to the public water system, including water meters, water acquisition fees, or other necessary expenses required by the retail public utility. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project, which may include the Commission and the county health department in addition to the responsible departments of the City. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study, which shall include comments regarding the long-term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.
- (B) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the Commission and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study, which shall include an analysis of the long-term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.
- (2) Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 9-13 of this Ordinance. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to Section 9-13 of this Ordinance does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will

treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the county at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next 30 years. Such statement may be based on information available from the Texas Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.

(3) Organized Sewerage Facilities

(A) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement in substantially the form attached in Appendix C between the subdivider and must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is immediately available to each lot. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the Commission and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.

(B) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the Commission. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the Commission and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.

(4) On-Site Sewerage Facilities (OSSF)

Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC, §285.4(c), including the site evaluation described by 30 TAC, §285.30 and all other information required by applicable OSSF regulations.

6-2. PROCESSING THE FINAL PLAT AND CONSTRUCTION PLANS

(a) Upon receiving the one (1) mylar copy and the ten (10) copies of the final plat, a copy of the construction plans, and the required plat filing fees, the city manager will inform the subdivider of the time of the next planning and zoning commission meeting at which the final plat will be considered. Upon receipt, the city manager will provide for the review of the final plat by the appropriate officials, being the city engineer, water and wastewater superintendent, and any other officials he or she deems appropriate to determine if the plat and proposed improvements conform to this ordinance and any required special conditions. Two (2) of the ten (10) copies of the proposed final plat will be provided to the city engineer for his or her comments and recommendations. The city engineer will then return one (1) copy to the city manager with his or her comments, if any. The city manager shall also insure that the final plat is checked against the approved preliminary plat for the subject property for compliance. After the final plat has been reviewed by both the city engineer and city staff the final plat will then be placed on the agenda for its consideration of approval by the planning and zoning commission. If desired by the subdivider and approved by the city, the final plat may constitute only that portion of the approved preliminary plat, which he or she proposes to record and develop.

(b) Within thirty (30) days after the subdivider formally files the final plat, the planning and zoning commission shall approve, disapprove, or conditionally approve with enumerated conditions such plat. If

the final plat is disapproved or conditionally approved, the city manager shall inform the subdivider in writing of the reasons or of any required revisions.

- (c) Upon approval or conditional approval by the planning and zoning commission, the final plat will be forwarded to the city commission for approval. Within thirty (30) days after receiving the final plat and recommendations from the planning and zoning commission, the city commission shall approve, disapprove, or conditionally approve with enumerated conditions such plat. If the final plat is disapproved or conditionally approved, the city manager shall inform the subdivider in writing of the reasons or of any required revisions. Upon approval by the city commission, four (4) complete sets of the final plat and construction plans, and profile sheets and a compact disk (CD) media, in Adobe Acrobat portable document format (pdf) of the final plat, construction plans and profile sheets will be submitted to the city manager for the city's use in performing inspections of the subdivision's development in order to determine its compliance with all approved requirements.

6-3. ACCEPTANCE AND RECORDING FINAL PLAT

(a) After the City Commission has approved the subdivision plat, and if the subdivider chooses to file a financial guarantee with the City of La Feria in lieu of constructing the required improvements, (if outside the city limits, the financial guarantee shall be filed with the County and proof of such filing shall be provided to the City of La Feria), the City Manager shall cause the filing of the plat with the County Clerk of the County in which the property is located. The filing of the final plat shall occur after receiving written consent from the developer and specific approval from the City Commission. A preconstruction conference with the developer and/or his designee shall be held prior to commencement of construction to ensure proper compliance with the provisions of the code and approval and acceptance of the improvements.

(b) After the City Commission has approved the subdivision plat, the subdivider may choose to construct the required infrastructure instead of filing a financial guarantee with the City or the County. Prior to installing the required infrastructure, a preconstruction conference shall be held to ensure proper compliance with provisions of the code. The infrastructure shall be inspected and tested during construction in accordance with the policies and standards of the City. After installation and testing of all required infrastructure improvements, the City Commission shall review the subdivision plat for final approval. Failure to pass all inspections and testing will prevent final approval of the subdivision plat by the City Commission. The City Manager shall cause the filing of the final plat with the County Clerk's Office of the County in which the property is located after installation of all infrastructure improvements, improvements passing all inspections and testing, and final approval by the City Commission.

(c) Building permits will only be issued after the copy of the recorded plat is received from the county clerk. Certificates of Occupancy will not be issued until it is determined that all of the improvements including streets, drainage, water, and sanitary wastewater have been constructed according to approved plans and that these facilities have been accepted by the City for ownership and maintenance. The City will not accept any street, drainage improvement, water line or wastewater line for maintenance until an acceptable one (1) year maintenance bond for all of the facilities in said subdivision has been presented to the City.

6-4. FINAL PLAT FILING FEES

The following schedule of fees and charges shall be collected by the city when any final plat is tendered to the city for consideration and approval. Such fees and charges shall accompany the application of the proposed plat and no action of the city commission shall be valid until the filing fee has been paid. This fee shall not be refunded to the subdivider should the plat be disapproved.

- (a) Inside City Limits:
\$150.00 per plat plus \$1.00 per lot
- (b) Outside City Limits in Extraterritorial Jurisdiction:
\$250.00 per plat plus \$1.00 per lot

SECTION 7: REPLATS**7-1. PROCEDURES**

(a) Any person who wishes to revise a subdivision replat which has been previously filed for record must make an application of the proposed revised plat to the planning and zoning commission. The replat of the subdivision shall meet all the requirements for a subdivision that may be pertinent. However, if the subdivision as replatted does not require any appreciable alteration or improvement of utility installations, streets, alleys, building setback lines, etc., then no engineering plans will be required. No preliminary plats will be required for any replats.

(b) In the event the proposed replat involves property that has been previously developed and limited by deed restrictions or zoned as single family or duplex residential use then the following special requirements must be adhered to. Public hearings before the Planning and Zoning Commission and City Commission are required.

(1) Publication in an official newspaper or a newspaper of general circulation in La Feria.

(2) By written notice to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the City of La Feria.

(c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the City Commission. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision must be filed with the City Commission, or both, prior to the close of the public hearing.

7-2. REPLAT FEES

The fee for replatting property shall be as follows:

(a) Inside City Limits - \$250.00

(b) Outside City Limits in ETJ - \$350.00

SECTION 8. ADMINISTRATIVE PLATS

(a) The City Manager may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;

(4) to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

- (5) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (6) to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) to correct an error in courses and distances of lot lines between two adjacent lots if:
 - (A) both lot owners join in the application for amending the plat;
 - (B) neither lot is abolished
 - (C) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (D) the amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - (8) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (9) to relocate one or more lot lines between one or more adjacent lots if:
 - (A) the owners of all those lots join in the application for amending the plat;
 - (B) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (C) the amendment does not increase the number of lots;
 - (10) to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (A) the changes do not affect applicable zoning and other regulations of the municipality;
 - (B) the changes do not attempt to amend or remove any covenants or restrictions; and
 - (C) the area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or
 - (11) to replat one or more lost [lots] fronting on an existing street if:
 - (A) the owners of all those lots join in the application for amending the plat;
 - (B) the amendment does not attempt to remove recorded covenants or restrictions;
 - (C) the amendment does not increase the number of lots; and
 - (D) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

SECTION 9. MAINTENANCE BOND

9-1. If the subdivider chooses to construct the required improvements prior to recording of the final plat, all such construction shall be inspected while in progress by the appropriate city officials, and must be approved upon completion by the Director of Public Works, the water and wastewater superintendent, and the city manager.

9-2. Upon completion of all improvements in accordance with city specifications and standards, and their acceptance by the city, the subdivider or developer or his, her, or their contractors shall furnish the city with either a letter of credit for maintenance or a maintenance bond executed by a corporate surety holding a permit from the State of Texas to act as surety or other surety acceptable to the city. Such letter of credit or bond shall be conditioned that the subdivider or developer shall warrant such improvements in good condition for a period of twelve (12) months. The amount shall equal to ten percent (10%) of the contract cost of all improvements and shall be in effect one (1) year from date of completion and acceptance by the city.

9-3. FINANCIAL GUARANTEES FOR IMPROVEMENTS

(a) **Applicability.** If an adequate public or nonpublic water systems or wastewater facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of five acres or less at the time final plat approval is sought, then the City shall require the owner of the subdivided tract to execute an agreement with the City in substantially the form attached in Appendix D secured by a bond, irrevocable letter of credit, or other alternative financial guarantee such as cash deposit which meets the requirements set forth below.

(b) **Bonds.** A bond that is submitted in compliance with paragraph (a) of this section shall meet the following requirements.

- (1) The bond or financial guarantee shall be payable to the mayor of the City, in his official capacity, or the mayor's successor in office.
- (2) The bond or financial guarantee shall be in the amount of 110% of the total development costs.
- (3) The bond shall be executed with sureties as may be approved by the City. The City shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:
 - (A) registration with the Secretary of State and be authorized to do business in Texas;
 - (B) authorization to issue bonds in the amount required by the City; and
 - (C) rating of at least B from Best's Key Rating Guide; or if the surety been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.

(c) **Letter of credit.** A letter of credit that is submitted in compliance with paragraph (a) of this section shall meet the following requirements:

- (1) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$10,000 and less than \$250,000 must be from financial institutions, which meet the following qualifications.

- (A) Bank qualifications:
 - (i) must be federally insured;
 - (ii) Sheshunoff rating must be 10 or better and primary capital must be at least 6.0% of total assets; and
 - (iii) total assets must be at least \$25 million.
 - (B) Savings and loan association qualifications:
 - (i) must be federally insured;
 - (ii) tangible capital must be at least 1.5% of total assets and total assets must be greater than \$25 million or tangible capital must be at least 3.0% of total assets if total assets are less than \$25 million; and
 - (iii) Sheshunoff rating must be 30 or better.
 - (C)
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a City investment; and
 - (ii) the investment instrument must be registered in the City's name and the City must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (2) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$250,000 must be from financial institutions that meet the following qualifications:
- (A) Bank qualifications:
 - (i) must be federally insured;
 - (ii) Sheshunoff rating must be thirty or better and primary capital must be at least 7.0% of total assets; and
 - (iii) total assets must be at least \$75 million.
 - (B) Savings and loan association qualifications:
 - (i) must be federally insured;
 - (ii) tangible capital must be at least 3.0% of total assets and total assets must be greater than \$75 million or tangible capital must be at least 5.0% of total assets if total assets are less than \$75 million; and
 - (iii) Sheshunoff rating must be 30 or better.
 - (C)
 - (i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a City investment; and
 - (ii) the investment instrument must be registered in the City's name and the City must receive safekeeping receipts for all collateral before the letter of credit is accepted.

- (3) The letter of credit shall list as sole beneficiary the mayor of the City, in his official capacity, or the mayor's successor in office, and must be approved by the city.
- (4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Appendix A of this ordinance and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the City.

(d) Financial guarantee. The City will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.

(e) Alternative to City accepting a financial guarantee. The City may approve a final plat under this section without receiving a financial guarantee in the name of the City if the City has executed an interlocal agreement with the County that imposes the obligation on the County to assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

SECTION 10: UNAVAILABILITY OF PUBLIC WATER AND/OR SEWAGE UTILITIES

If a proposed subdivision is located beyond the drainage area of an approved sewage collection system or beyond the service area of an approved water distribution system the subdivider shall be required to furnish, with his or her preliminary plat, satisfactory evidence, including (but without limitation) the results of soil tests and borings, and statements from local and state health authorities, water engineers, and other proper officials, that water satisfactory for human consumption may be obtained from surface or subsurface water sources on the land/or that soil conditions are such that satisfactory sewage disposal can be provided by the use of approved septic tanks or developer installed sewage treatment systems. Construction of private utilities shall be in 30 TAC Chapter 285, 30 TAC Chapter 317, Texas Health and Safety Code, Chapter 366.

SECTION 11: STANDARD SPECIFICATIONS FOR SUBDIVISIONS

The design and construction standards found in Appendix A hereof shall govern the construction of all subdivision improvements as well as establishing standards for materials to be used unless otherwise stipulated by the city.

SECTION 12: OFF-SITE IMPROVEMENTS

Where it is necessary, in order to properly serve the subdivision, that extension of existing city utilities or that drainage facilities be constructed outside the subdivision, which extensions or such facilities are herein referred to as "off-site improvements," the developer shall install such off-site improvements of such a size as to adequately serve the area being subdivided, at his or her own expense. However, if the city should require the construction of off-site improvements of a size greater than needed to serve the subdivision, then the city shall within one (1) year after date of approval of such construction, reimburse the developer for any increased cost of such facilities. In no event shall the city participate in the cost of water or wastewater mains six inches (6") or smaller.

SECTION 13: LIABILITY OF CITY

Neither the city nor any authorized agent acting under the terms of this ordinance shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this ordinance.

SECTION 14: CONFLICTING ORDINANCES

Whenever the standards and specifications in this ordinance conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern.

SECTION 15: PENALTY FOR VIOLATION

(a) Except as provided in subsection (b) of this section, any person violating any provision of this ordinance within the jurisdiction of the city shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00). Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this ordinance.

(b) Any person violating any provision of this chapter [ordinance] within the extraterritorial jurisdiction of the city, but outside the corporate limits of the city, shall not be guilty of a misdemeanor within the meaning of subsection (a) in this section, nor shall be fined in relation thereto. However, the city may institute an action in the district court to enjoin the violation of any provision of this chapter in such extraterritorial jurisdiction, the district court having been empowered to grant any or all types of injunctive relief in such cases under section 4 of article 970a, Vernon's Revised Civil Statutes.

SECTION 16: CITY ATTORNEY'S AUTHORITY

On behalf of the city, the city attorney, when directed by the City Commission, shall institute appropriate action in a court of competent jurisdiction to enforce the provisions of this ordinance or the standards referred to herein with respect to any violation thereof which occurs within the city, within the extraterritorial jurisdiction of the city as such jurisdiction is determined under the Municipal Annexation Act, or within any area subject to all or a part of the provisions of this ordinance.

SECTION 17: SEVERABILITY

That it is hereby declared to be the intention of the City Commission that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared [unconstitutional, such] unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Commission without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraphs or section.

SECTION 18: EFFECTIVE DATE OF ORDINANCE

This ordinance shall take effect immediately from and after its passage and the publication of its caption, as the law in such cases provides.

PASSED and APPROVED on this 27th day of May 2004 by the City Commission of the City of La Feria, Texas.

Appendix A

MINIMUM DESIGN STANDARDS AND SPECIFICATIONS

The minimum design standards for subdivisions are intended to establish a quality of construction and environmental design that will reduce maintenance costs to acceptable limits and to provide service that is both adequate and convenient. There may be from time to time situations that will dictate requirements in excess of those given. The city commission will have final authority in determining when additional requirements are in order.

SECTION 1: GENERAL

1-1. The city shall specify the area required for the allocation of parks and other public spaces that are essential to the proper development of the area. Parkland or cash in lieu of parkland shall be required of the subdivider or developer in accordance with the city's parkland dedication ordinance.

1-2. All services for utilities shall be made available for each lot in such a manner that it will not be necessary to disturb any curb, gutter, street pavement, or drainage structures when connections are made.

1-3. All utility lines that pass under a street or alley shall be installed before the street or alley is paved.

1-4. The developer shall furnish the city with one (1) set of "as built" plans for all paving, drainage structures, water mains, and wastewater mains within sixty (60) days after completion of construction.

SECTION 2: LOTS

2-1. The size, width, depth, shape, and orientation of lots shall be appropriate for the neighborhood in which the subdivision is located and for the type of development and use contemplated. All lots shall front upon a public street.

2-2. Lot sizes, set back lines, rear yards, and side yards shall conform with the city's zoning ordinance, where applicable.

2-3. Where lots are not regulated by the city's zoning ordinance, the minimum dimensions for interior residential lots shall be fifty feet (50') for width and one hundred and ten feet (110') for depth; provided, that a decrease in depth may be made if the lot width is increased so as to provide for a minimum lot area of six thousand (6,000) square feet. The minimum width of residential corner lots not adjacent to a collector street shall be sixty feet (60') and the minimum area of corner lots shall be six thousand six hundred (6,600) square feet. Where adjacent to a collector street, the minimum width of lots shall be seventy feet (70') and the minimum area for the corner lot shall be seven thousand seven hundred (7,700) square feet.

2-4. Where a residential lot abuts a highway, railroad right-of-way, high-pressure gas line, electric transmission line (69 KVA or higher), or an industrial or commercial area, an additional lot depth or width of at least ten feet (10') adjacent to such incompatible [use] shall be required.

2-5. There shall be no more than one single family or mobile home dwelling per lot.

SECTION 3: BLOCKS

Block lengths and widths shall be provided at such intervals as to best serve traffic adequately and to meet existing streets, or to comply with customary subdivision practices. In no case shall block lengths exceed fourteen hundred feet (1,400) or be less than five hundred feet (500') long in residential areas or exceed eighteen hundred feet (1,800) long in commercial and industrial areas or be less than nine hundred feet

(900') long. Block widths shall be such as to allow for two tiers of lots back to back, except where abutting a major street or thoroughfare or where prevented by topographical conditions or the size of the property.

SECTION 4: STREET AND CROSSWALKS

4-1. Private streets which serve more than one residential lot or more multifamily structures owned by more than one person are prohibited, except in approved mobile home parks. All other streets shall be dedicated to the city.

4-2. Major thoroughfares shall have a right-of-way of eighty feet (80') and a paving width of forty-eight feet (48'). Collector streets shall have a right-of-way width of sixty feet (60') and a paving width of thirty-nine feet (39'). Local residential streets shall have a right-of-way width of fifty feet (50') and a paving width of twenty-nine feet (29'). Paving width is determined from face of curb to face of curb.

4-3. The minimum acceptable pavement surface shall be as follows:

<u>Street Classification</u>	<u>Subgrade</u>	<u>Base</u>	<u>Surface</u>
Major Thoroughfare	Lime stabilization as recommended by soil report	12" flexible	Asphalt, hot mix, hot laid, 200 lb. Per sq. yd. -or- reinforced concrete. The final design of which shall be approved by the City Engineer.
Collector Street	Lime stabilization as recommended by soil report	8" flexible	Asphalt, hot mix, hot laid, 150 lb. Per sq. yd. -or- reinforced concrete. The final design of which shall be approved by the City Engineer.
Local Residential Street	Lime stabilization as recommended by soil report	6" flexible	1-1/2" rock asphalt -or- Asphalt, hot mix, hot laid, 125 lb. Per sq. yd. -or- reinforced concrete. The final design of which shall be approved by the City Engineer.

A soil report with recommendation by a registered professional engineer shall be submitted with the design data.

4-4. Existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.

4-5. Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provisions for the proper projection of streets into such unsubdivided areas.

4-6. Street jogs (or offsets) with centerline offsets of less than one hundred twenty-five feet (125') shall be avoided.

4-7. Half streets shall be prohibited;

4-8. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain, topography, site distances, and safety.

4-9. Dead end streets shall be prohibited except as short stubs to permit future expansion.

4-10. Cul-de-sacs shall not exceed four hundred feet (400') in length, and shall have a minimum of right-of-way radius of fifty feet (50').

4-11. Curbs and gutters shall be installed by the subdivider on both sides of all interior streets and on the subdivision side of all streets forming part of the boundary of the subdivision.

4-12. Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

4-13. STREET SIGNS:

Within city limits: Within the corporate limits of the city, street signs will be furnished and installed by the city at each intersection; and the subdivider shall pay to the city such sum as computed by the City for street sign material, before final approval for recording. Cost of labor for installation of the signs will be paid by the city.

Outside city limits: In subdivisions lying beyond the corporate limits and within the extraterritorial jurisdictions of the city, street name signs shall be installed by the subdivider at his expense. Such signs shall be of a standard type approved by the city and shall be installed in accordance with the standards approved by the city engineer.

4-14. Street lights shall be installed by the subdivider at all street intersections and along streets approximately three hundred feet (300') apart.

4-15. Pedestrian crosswalks not more than eight feet (8') wide with not less than four feet (4') of paved surface shall be dedicated in subdivisions where deemed necessary by the city commission to provide access to schools, playgrounds, shopping centers or other neighborhood facilities.

4-16. All pedestrian crosswalks and street construction materials and workmanship shall be in accordance with the city's development and construction standards.

SECTION 5: ALLEYS

(1) The flexible pavement section for alleys shall be:

- (a) Residential - 10' width (minimum) - Lime stabilized subgrade as recommended by the soil report, 6" compacted caliche base (minimum) and 125 lbs. Per square yard HMAC pavement (minimum).
- (b) Commercial - 18' width (minimum) - Lime stabilized subgrade as recommended by the soil report, 8' [8"] compacted caliche base (minimum) and 150 lbs. per square yard HMAC pavement (minimum).

SECTION 6: UTILITY EASEMENTS

Easements at least ten feet (10') wide, five feet (5') on each side of the rear lot lines or side lot lines, shall be provided wherever necessary for utilities. Width of easements shall be determined based on space needs.

SECTION 7: SIDEWALKS

Sidewalks, when required, shall be concrete and have a width of not less than four feet (4') and thickness of not less than four inches (4"). Sidewalks shall be constructed one foot (1') from the property line within the

street right-of-way. Sidewalks shall be constructed in accordance with the city's development and construction standards. Sidewalks shall be as nearly parallel to the street as possible and be located so they are at least three feet (3') from the curb or in line with existing sidewalks in the area. No sidewalk is required until a lot is improved, but at the time of such improvement, a sidewalk complying with these provisions shall be provided on such lot.

SECTION 8: STORM DRAINAGE

8-1. Drainage facilities shall be provided and constructed at the expense of the subdivider or developer. The subdivider or developer shall be solely responsible for the design and installation of drainage facilities so as to prevent flooding or like damages to any adjoining property.

8-2. Storm water runoff shall be computed by the Rational Method which is an analysis of the runoff problem for each drainage area long [along] rational lines and includes the analysis of the flow of storm water from the surface on which it falls to the inlet that leads to the storm sewer and then through the storm sewer, culvert, and/or channel to the point of disposal. The formula for calculation of runoff by the rational method is $Q = CIA$.

Q = the maximum rate of runoff discharge expressed as cubic feet per second.

C = a runoff coefficient which varies with the topography land use and moisture content of the soil. The runoff coefficient shall be based on the ultimate use of the land and shall be selected from below:

	For slopes less than 2%
Business areas (downtown)	0.80
Industrial area (light)	0.75
Residential areas (single family & some multifamily)	0.50
Park area	0.30

I = rainfall intensity in inches per hour determined from the Weather Bureau rainfall curve by arriving at the time of concentration and a rainfall frequency and then reading the chart accordingly. Time of concentration or duration of rainfall shall be calculated by the data shown in Table I.

A = the drainage area, in acres. Tributary to the point under design calculated from the drainage map of the area. This drainage map shall be submitted with any drainage plans submitted for consideration by the city.

TABLE I

DATA FOR COMPUTING TIME OF CONCENTRATION

	Velocity of Runoff in Ft./Sec. For Slope in Percent:			
Description of Water Course	0% to 3% V in ft./sec.	4% to 7% V in ft./sec.	8% to 11% V in ft./sec.	over 12% V in ft./sec.

Brush land	1.0	2.0	3.0	3.5
Pasture	1.5	3.0	4.0	4.5
Cultivated	2.0	4.0	5.0	6.0
Pavement	5.0	12.0	15.5	18.0
Channels	Determine V by Mannings Formula			
Storm Sewers	Determine V by Mannings Formula			

TABLE II

**AVERAGE VELOCITY OF THE RUNOFF FOR CALCULATING TIME OF CONCENTRATION
OR DURATION OF RAINFALL**

These average velocities in this table shall be used [used] unless the designer shows calculation of velocities by streets using the gutter velocities as follows:

<u>% Slope of Gutter</u>	<u>Assumed Velocity-Ft./Sec.</u>
1 % or less	2.0
1% to 3%	3.0
3% to 5%	4.3
5% to 8%	5.4
8% to 10%	6.4

Using the average velocities from this table the designer shall calculate the time of concentration by the following formula unless more data is shown on the plans for calculating time of concentration.

$$T = \text{"Inlet Time"} + \frac{D}{V \times 60}$$

where:

- T = Time of concentration in minutes for use in determining rainfall intensity (I).
- D = Distance in feet from [from] point of concentration to upper end of drainage area under consideration.
- V = Velocity in feet per second from this table or velocity calculated by designer by streets and/or storm sewers.
- "Inlet Time" = 10 minutes for property zoned for multifamily, business, or industrial and 15 minutes for property zoned for parks, schools, single family residential and duplex.

8-3. Streets shall be designed to accommodate a ten (10) year frequency storm and underground storm drains shall be designed to accommodate a twenty-five (25) year frequency storm. In addition to the storm

drainage pipe, the City and/or the City Engineer may direct the onsite storm water detention facilities as required—based on the selected design storm.

8-4. Design of all bridges, culverts, underpasses and open channels are to be based on a twenty-five (25) year frequency;

8-5. The ten (10) year storm runoff may be carried in the streets at a depth up to the curb height that is to the full capacity of the street. When the ten (10) year storm runoff exceeds the street capacity then storm drains must be added;

8-6. Sufficient and adequate inlets are to be installed to allow entry of required quantity of water into storm sewers. Inlet openings shall be about five inches (5") high. Openings shall be as determined on the basis of one (1) linear foot of inlet per cubic foot per second of storm water to be picked up except at the sag of a street where emergency overflow is provided, one and one-half (1-1/2) cubic foot per second per foot of inlet opening will be allowed;

8-7. Street grades shall be such that excessive soil deposition from too low a water velocity or pavement scouring from too high a velocity is to be avoided as far as practical. Street grades are normally to be not less than one and one-half feet (1-1/2') fall per thousand linear feet and shall never be less than one-foot (1') fall per thousand linear feet;

8-8. Concrete valley gutters shall be provided to carry the water flow across all intersections where necessary so as not to impede storm water flow;

8-9. Where water is dumped from a street directly into an open water-course, it shall be dumped through an approved type of inlet and outlet;

8-10. An open ditch or natural drainage way through a subdivision may be left at its current location, but a study must be made by a Registered Professional Engineer knowledgeable about drainage to determine the limits of the potential for flooding for a twenty-five (25) year storm in the drainage basin. No permanent structure may be built within the flood plain except in accordance with the city's zoning ordinance. Buildings adjacent to the flood plain must have a finish floor elevation two feet (2') minimum above the twenty-five (25) year water surface. An alternate to this is to provide a concrete lined channel. The bottom width of the channel and the other dimensions as well as all engineering details shall be provided by a Registered Professional Engineer. As a guide, in general, the height of the lining shall be adequate for the calculated depth of the twenty-five (25) year storm plus a two foot (2') freeboard. Walls are to be four inch (4") concrete walls sloped not steeper than one foot (1') vertically to one and one-half feet (1-1/2') horizontally. All concrete slabs are to be reinforced with a minimum of 6" x 6" x 6 gauge wire mesh, and provided with proper weep holes or other pressure relief measures.

8-11. In new subdivisions the developer shall provide all the necessary easements and rights-of-way required for drainage structures, including storm sewers and open lined channels. The easement width for storm sewer pipe shall be not less than ten feet (10'), and the easement width for open channels shall be at least twenty feet (20') wider than the top of the channel, fifteen feet (15') of which shall be on one side to serve as access way for maintenance purposes.

8-12. The construction of all drainage facilities shall be in accordance with the city's development and construction standards. All concrete used in drainage structures shall, at a minimum, develop a compressive strength of three thousand (3,000) p.s.i. in twenty-eight (28) days.

SECTION 9: PUBLIC WATER SYSTEM

9-1. All subdivisions shall be connected to the city's water system and all water mains must be constructed in accordance with rules and regulations for public water systems as published by the Texas Department of Health, Water Hygiene Division and must meet the city's development and construction standards.

- 9-2. All water mains shall be AWWA C-900, Class 100 (DR-25) polyvinyl chloride pipe with cast iron outside dimensions and meet the material standards specified in the city's development and construction standards.
- 9-3. All water services shall be a minimum of three-quarter inch (3/4") diameter. Type "k" copper with corporate stop at main and curb stop behind curb line.
- 9-4. Water system extensions shall be designed to provide for a domestic supply of at least one hundred fifty (150) gallons per capita per day, plus an approved fire flow delivered at a minimum pressure of forty (40) pounds per square inch.
- 9-5. All mains installed within a subdivision must extend to the borders of the subdivision, as required for future extensions of the systems, regardless of whether or not such extensions are required for service within the subdivisions.
- 9-6. Valves shall be located so that no more than about eight hundred feet (800') of a residential line of five hundred feet (500') of a business district line would be shut down during a water line break. Two (2) valves will be required at each tee and three (3) at each cross. A lesser number of valves may be used if proper shut down control can be provided.
- 9-7. Fire hydrants shall be provided at locations such that all residential areas of development are located within a five hundred foot (500') radius from a fire hydrant and served by a six inch (6") or larger water main and commercial areas of development are located within a three-hundred foot (300') radius and served by an eight inch (8") or larger water main.
- 9-8. The minimum size of water main shall be six inches (6") for residential development and eight inches (8") for commercial development. The minimum main size for industrial development shall be determined by the city engineer, but in no event, less than eight inches (8").
- 9-9. All water system installations shall be constructed in accordance with the city's development and construction standards at the developer's expense.
- 9-10. Water service connections shall be provided for each lot at the time the water lines are installed and shall be within one inch (1") vertical distance of the natural grade of the vicinity. Water service connection locations for each lot shall be marked with a "W" stamped in a 4" letter into the curb.
- 9-11. All tees shall be "mechanical" and wrapped in plastic sheeting prior to thrust blocking being poured. Water lines shall be "looped" whenever possible to ensure adequate pressure and to prevent stagnation in dead-end lines.
- 9-12. Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility in substantially the form attached in Appendix B of this ordinance. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.
- 9-13. The water quality of the water produced from test well must meet the standards of water quality required for community water systems as set forth in 30 TAC, §§290.103, 290.105, 290.106 and 290.110,

either (1) without any treatment to the water; or (2) with treatment by an identified and commercially available water treatment system.

SECTION 10: PUBLIC WASTEWATER SYSTEM

10-1. All subdivisions shall be connected to the city's sanitary wastewater system and all sanitary wastewater mains shall be designed in accordance with the latest rules and regulations as published by the Texas Natural Resource Conservation Commission and must meet the city's development and construction standards. On-site sewage treatment systems may be permitted in the developments where public wastewater is not readily available or when such developments are located in the extraterritorial jurisdiction; provided, such lots are least one-half acre net in size and where percolation tests reveal that soil conditions are such that satisfactory sewage disposal can be provided.

10-2. All wastewater lines shall be designed with consideration for serving the full drainage area subject to collection by the wastewater in question except as modified by the city because of the projected rate of development or the financial feasibility of the proposed extension.

10-3. In determining the population equivalent for design purposes, undeveloped areas shall be estimated at not less than five (5) persons per acre. The contributing sewage shall be estimated on the basis of an average flow of one hundred (100) gallons per person per day plus infiltration of one thousand (1,000) gallons per acre per day. Laterals and minor wastewater lines shall be designed such that when flowing full they will transport wastewater at a rate approximately four times the system design daily average flow. Main trunk, interceptor, and outfall shall be designed to convey expected peak flow.

10-4. The minimum size of wastewater main shall be six inches (6") for residential development and eight inches (8") for commercial development. The minimum main size for industrial development shall be determined by the city engineer, but in no event, less than eight inches (8").

10-5. All sanitary wastewater mains, services, and fittings shall be either polyvinyl chloride (PVC) wastewater pipe and meet the material standards as specified in the city's development and construction standards.

10-6. All wastewater lines shall be designed with hydraulic slopes sufficient to give mean velocities, when flowing full or half full, of not less than two feet (2') per second nor more than five feet (5') per second based on Kutter's or Manning's formulas using an "n" value of 0.013, as set forth in the latest edition of the Texas Natural Resource Conservation Commission's rules and regulations.

10-7. Wastewater lines shall be designed in straight alignment wherever possible. Where horizontal curvature must be used, the smallest radius shall be one hundred feet (100').

10-8. Manholes shall be constructed at all changes in grade, alignment, or size of wastewater lines and at all intersections of wastewater lines except service wastewater lines and at the ends of all wastewater lines that will be extended. The maximum allowable distance between manholes shall be four-hundred feet (400').

10-9. All lateral and wastewater mains installed within a subdivision must extend to the borders of the subdivision, as required for future extensions of the collection system, regardless whether or not such extensions are required for service within the subdivision.

10-10. All wastewater system construction shall be at the developer's expense and shall be in accordance with the latest edition of the Commission Rules.

10-11. All manholes shall be constructed of fiberglass.

10-12. Where wastewater lines are installed, sanitary wastewater service connections shall be provided for each lot with two-way cleanouts provided at the property lines. All service connections, when completely installed, for future locating purposes, shall be within one inch (1") vertical distance of the natural grade of the vicinity. Wastewater service connection locations for each lot shall be marked with an "S" stamped in a 4" letter into the curb.

10-13. Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form attached in Appendix C with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is available to each lot upon completion of construction of the wastewater facilities described on the final plat.

PASSED AND APPROVED THIS 10TH DAY OF JANUARY 2008.

APPROVED:



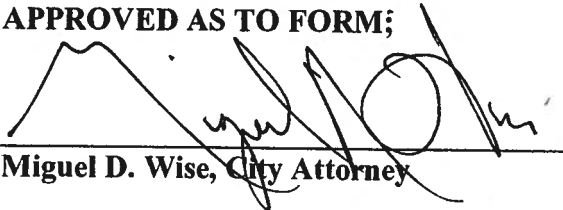
Steve Brewer, Mayor

ATTEST:



Olga Oberwetter, City Secretary

APPROVED AS TO FORM;



Miguel D. Wise, City Attorney

Appendix B
SAMPLE WATER SERVICE AGREEMENT

AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED
SUBDIVISION

PARTIES: This agreement is by and between the Utility provider and the Subdivider, to wit: The Utility provider is the governing body or owner of a retail public utility which supplies drinking water and is known as _____.

The subdivider is _____ who is the owner, or the authorized agent of the owner, of a tract of land in Cameron County, Texas that is being proposed to be divided into a subdivision known as _____.

TERMS: This agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The subdivider has prepared a plat of the Subdivision for submission to the City of La Feria for its approval. The subdivider plans to construct for the subdivision a drinking water distribution system to be connected to the Utility's public water system. The Utility has reviewed the plans for the subdivision and has estimated the water flow anticipated to be needed by the subdivision under fully built-out conditions (the anticipated water flow) to be approximately _____ gallons per day.

The utility covenants that it has or will have the ability to provide the anticipated water flow for at least thirty years, or that it will provide that water flow. These covenants will be in effect until thirty years after the plat of the subdivision has been recorded and the subdivision's water distribution system has been connected to the Utility's water supply system.

The subdivider covenants that the water distribution system will be constructed as shown in the plans and as provided for through the plat approval process so that the residents of the lots of the Subdivision may receive water service from the Utility. Upon completion of the water distribution system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the water distribution system.

The Subdivider has paid the Utility the sum of \$_____ which represents the total costs of water meters, water right acquisition fees, and all membership or other fees associated with connecting the individual lots in the Subdivision to the Utility's water supply system.

The above provisions notwithstanding, this agreement shall no longer be in effect if the plat of the Subdivision is not approved by the City of La Feria or by any other entity whose approval is required.

By affixing his/her signature to this Agreement, the person signing for the Utility warrants that he/she is authorized to sign this Agreement on behalf of the Utility. By affixing his/her signature to this Agreement, the person signing for the Subdivider warrants that he/she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on _____, 20_____.

For The Utility:

By: _____

Printed Name: _____

Office or Position: _____

Date: _____

For The Subdivider:

By: _____

Printed Name: _____

Office or Position: _____

Date: _____

Appendix C
SAMPLE WASTEWATER SERVICE AGREEMENT

AGREEMENT REGARDING WASTEWATER SERVICE FOR THE PROPOSED
SUBDIVISION

PARTIES: This agreement is by and between the Utility provider and the Subdivider, to wit: The Utility provider is the governing body or owner of a retail public utility which supplies wastewater collection and treatment and is known as _____.

The subdivider is _____ who is the owner, or the authorized agent of the owner, of a tract of land in Cameron County, Texas that is being proposed to be divided into a subdivision known as _____.

TERMS: This agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The subdivider has prepared a plat of the Subdivision for submission to the City of La Feria for its approval. The subdivider plans to construct for the subdivision a wastewater collection system to be connected to the Utility's wastewater treatment system. Such wastewater will consist of domestic sewage, i.e., waterborne human waste and waste from domestic activities such as bathing, washing and food preparation. The Utility has reviewed the plans for the subdivision and has estimated the wastewater flow projected from the subdivision under fully built-out conditions (the anticipated wastewater flow) to be approximately _____ gallons per day.

The utility covenants that it has or will have the ability to treat the projected wastewater flow and that it will treat the flow for at least thirty years. These covenants will be in effect until thirty years after the plat of the subdivision has been recorded and the subdivision's wastewater collection system has been connected to the Utility's wastewater treatment system.

The subdivider covenants that the wastewater collection system will be constructed as shown in the plans and as provided for through the plat approval process so that the residents of the lots of the Subdivision may receive wastewater service from the Utility. Upon completion of the wastewater collection system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the wastewater collection system.

The Subdivider has paid the Utility the sum of \$_____ which represents the total costs of tap fees, capital recovery charges, and all membership or other fees associated with connecting the individual lots in the Subdivision to the Utility's wastewater collection system.

The above provisions notwithstanding, this agreement shall no longer be in effect if the plat of the Subdivision is not approved by the City of La Feria or by any other entity whose approval is required.

By affixing his/her signature to this Agreement, the person signing for the Utility warrants that he/she is authorized to sign this Agreement on behalf of the Utility. By affixing his/her signature to this Agreement, the person signing for the Subdivider warrants that he/she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on _____, 20_____.

For The Utility:

By: _____

Printed Name: _____

Office or Position: _____

Date: _____

For The Subdivider:

By: _____

Printed Name: _____

Office or Position: _____

Date: _____

Appendix D
SUBDIVISION CONSTRUCTION AGREEMENT SAMPLE FORM

1. Parties. This Subdivision Construction Agreement (the Agreement) is by and between the City of La Feria and the Subdivider. The Subdivider is _____, who is the owner, or the authorized agent or owner, of a tract of land located within the geographic area and jurisdiction of the City.

2. Effective Date. This agreement is effective on the date the City approves the final plat for the subdivision described in paragraph 3 of this agreement.

RECITALS

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the subdivision, more particularly described by metes and bounds attached as Exhibit A.

4. Subdivider seeks authorization from the City to subdivide the Property in accordance with the requirements imposed by Texas statute and the City's Ordinances, regulations, and other requirements; and

5. City Ordinances require the completion of various improvements in connection with the development of the subdivision to protect the health, safety and general welfare of the community and to limit the harmful effects of substandard subdivisions; and

6. The purpose of this agreement is to protect the City from the expense of completing subdivision improvements required to be installed by the Subdivider; and

7. This agreement is authorized by and consistent with state law and the City's ordinances, regulations, and other requirements governing development of a subdivision.

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

SUBDIVIDER'S OBLIGATIONS

8. Improvements. The subdivider agrees to construct and install, at Subdivider's expense, all subdivision improvements required to comply with the City's ordinances, regulations and policies governing subdivision approval, specifically including without limitation those improvements shown on the final plat of the subdivision, as approved by the City of La Feria. All improvements shall be constructed in conformity with Appendix A of this ordinance and are subject to inspection, certification and acceptance by the City.

9. Completion. Unless a different time period is specified by the La Feria City Commission for a particular improvement during the plat approval process, construction of all of the improvements shall be completed no later than one year from the effective date. Upon completion of the construction of the improvements, the Subdivider agrees to provide the City with a complete set of construction plans ("as built") within sixty days of construction completion.

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

execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the City.

11. Security. To secure the performance of Subdivider's obligations under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the City, a cash deposit to be held by the City escrow, or an irrevocable letter of credit in the amount of _____ Dollars (\$ _____) (the Stated Amount), which amount is 110% of the estimated total cost of constructing each of the improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to the City, shall have an expiration date no earlier than one year from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the City's financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the Issuer). During the term of this Agreement and subject to the terms of Paragraph 22 of this Agreement, the City may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of Subdivider's obligations under this agreement. A letter of credit satisfying the criteria of this Paragraph (and any substitute or confirming letter of credit) is referenced to in this Agreement as the "letter of credit."

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

CITY'S OBLIGATIONS

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

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

15. Use of Proceeds. The City will disburse funds drawn under the Letter of Credit only for the purposes of completing the improvements in conformance with the City's requirements and specifications for the improvements, or to correct defects in or failures of the improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on the funds. All funds obtained by the City pursuant to one or more draws under the Letter of Credits shall be

maintained by the City in an interest bearing account or accounts until such funds, together with accrued thereon (the escrowed funds), are disbursed by the City. The City may disperse all or portions of the escrowed funds as improvements are completed and accepted by the City, or in accordance with the terms of a written construction contract between the City and a third party for the construction of improvements. Escrowed funds not used or held by the City for the purpose of completing an improvement or correcting defects in or failures of improvements, together with interest accrued thereon, shall be paid by the City to the Issuer of the Letter of Credit no later than sixty (60) days following the City's acceptance of the improvement or its decision not to complete the improvement using escrowed funds, whichever date is earlier.

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

17. Cost Participation by City. If the City and Subdivider agree the City will participate in the expense of installing any of the Improvements, the respective benefits and obligations of the parties shall be governed by the terms of that agreement shall control to the extent of any inconsistency with this Agreement.

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

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

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

Issuer of the Subdivider may deliver to the City a substitute Letter of Credit if the event is described by subparagraph (b) or a substitute or confirming Letter of Credit if the event is described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring draft based on an event described in subparagraph (d), the issuer may deliver to the City a substitute or confirming Letter of Credit.

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

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

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

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

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

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

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

26. Attorney's Fees. Should either party or the Issuer, to the extent Issuer is named as specific beneficiary, be required to resort to litigation to enforce the terms of this agreement, the prevailing party, plaintiff or

defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in the entirety.

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

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

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

if to Subdivider

Attn: _____

Printed Name: _____

Office or Position: _____

Address: _____

if to City:

Attn: _____

Printed Name: _____

Office or Position: _____

Address: _____

if to the Issuer: at Issuer's address shown on the Letter of Credit.

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

30. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term, or provision vas [sic] never part of this Agreement.

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

the terms of this Agreement, expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

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

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

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

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

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

EXECUTED by the parties to be effective as of the _____ day of _____, 2001.

City Official

Subdivider

Witness

Witness

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT B: SUBDIVISION IMPROVEMENTS

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

	<u>Description of Improvement(s)</u>	<u>Estimated Cost of Completion</u>
a)		
b)		
c)		

The following is a summary of the results of the study conducted by the author, which is based on a review of the literature and a study of the records of the patients who have been treated by the author.

The study was conducted in the following manner: The author reviewed the literature on the subject of the treatment of the disease, and then he conducted a study of the records of the patients who have been treated by the author. The results of the study are as follows:

The author found that the treatment of the disease by the author is as follows:

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