

## CHAPTER 6: DEVELOPMENT

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CITY OF ELM SPRINGS ZONING ORDINANCE

## CHAPTER 6: DEVELOPMENT

### 6.01 Development Categories

- (A) *Property Line Adjustment.* A property line adjustment is a transfer or adjustment of a property line or lines between adjoining property owners which does not create a separate, new lot. A property line adjustment is not required to dedicate new utility easements or right-of-way.
- (B) *Subdivision of Land.*
- (1) *Lot Split.* When a property is to be subdivided into two, three or four lots, the application may be processed as a lot split. After the creation of more than four lots from an original parent tract in a five year period, any subsequent subdivision of the parent or resulting tracts is required to be processed as a preliminary/final plat, or concurrent plat. A lot split may be required to dedicate new easements or right-of-way, and may be combined with an easement plat.
  - (2) *Preliminary Plat.* When a property is to be subdivided into more than four lots, or when a parent or resulting tract has been subdivided three or more times and is proposed to be further subdivided, the application shall be processed as preliminary plat. A preliminary plat establishes the preliminary location of lot lines, streets, and utility infrastructure, and allows for the applicant to request construction plan approval and install required improvements.
  - (3) *Final Plat.* After completion of the required infrastructure (water, sewer, storm drainage, utilities, street improvements, etc.) for a preliminary plat, the owner/developer may submit an application for approval of the final plat. The final plat application may not be submitted until the construction of the infrastructure is substantially complete.
  - (4) *Concurrent Plat.* A concurrent plat combines the preliminary and final plat into one step. A concurrent plat is permitted when a property is to be subdivided into more than four lots, or when a parent or resulting tract has been subdivided three or more times and is proposed to be further subdivided, and the existing and new parcels do not require construction of new infrastructure.
- (C) *Concept Plan.* When a developer intends to subdivide or develop land within the City or City's planning area boundary he/she may submit a concept plan to obtain feedback and recommendations from City staff and the Planning Commission prior to submitting a fully engineered development plan for review.
- (D) *Large Scale Development.* A Large Scale Development is generally intended for, but not limited to a non-residential, mixed use, or multi-family development on a site where subdivision of land is not proposed.
- (1) *Excluded developments.* The following shall be excluded from the large scale development review process:
    - (a) *Single-family.* A single-family residence, an addition to a single-family residence, or an accessory structure for a single-family residence;
    - (b) *Additions.* An addition to an existing structure if the addition will not:
      - (i) Exceed 2,000 square feet; or
      - (ii) Require more than 4 additional parking spaces under the provisions of Chapter 8, Parking and Loading; or
      - (iii) Require a change in existing ingress or egress.
- (E) *Modifications.*
- (a) *Minor modifications.* The City may authorize minor modifications in an approved large scale development or subdivision of land. Minor modifications shall include, but not be limited to, substitutions of one approved structural type for another, minor variations in placement of buildings in such a way that the overall limits of approved floor area, open space or rooms per acre are not increased, and minor shifts in property line locations.
  - (b) *Major modifications.* In the event that a developer wishes to make major modifications to an approved development, such modifications shall be submitted to the Planning Commission in a form which compares the approved submission with the desired changes. After submission, the Planning Commission shall approve or disapprove the requested modifications.

## 6.02 Development Review Process

### (A) Application Submittal

(1) *Submittal.* All development applications shall be submitted to the City and will be processed for review.

(B) *Public Meetings.* Development applications are required to be processed through the Planning Commission.

### (C) Approval and Denial Criteria

(1) *Planning Commission Approval.* The following applications shall be approved by the Planning Commission, subject to the criteria listed below: Property Line Adjustment, Lot Split, Large Scale Development, Preliminary Plat, Final Plat, and Concurrent Plat.

(a) *Reasons for denial.* The Planning Commission may refuse to approve a Property Line Adjustment, Lot Split, Large Scale Development, Preliminary Plat, Final Plat, and Concurrent Plat for any of the following reasons:

(i) The plat or development plan is not submitted in accordance with the requirements of this chapter.

(ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.

(iii) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.

(iv) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.

(v) Public water and sewer is not readily available to the property within the development, and the developer has made no provision for providing such service to the development.

(vi) The developer refused to comply with ordinance requirements or conditions of approval for on-site and off-site improvements.

(D) *Plat Recordation or Construction Plan Approval.* After obtaining approval by the Planning Commission the applicant shall follow the procedures set forth below in order to record the plat or obtain construction plan approval.

(1) *Property Line Adjustment, Lot Split, Final Plat, Concurrent Plat.* The applicant shall submit copies of the approved plats containing all required signatures to the City for final approval. The plats shall be recorded by the applicant and copies of the recorded plats provided to the City as required.

(2) *Preliminary Plat and Large Scale Development.* Receipt of the approval authorizes the applicant to proceed with:

(a) The preparation of plans, reports and specifications in accordance with City requirements including but not limited to:

(i) Street plans, profiles and specification accompanied by soil analyses and design calculations;

(ii) Storm drainage plans, profiles and specifications accompanied by soil analyses and design calculations; and

(iii) Water and sewer plans, profiles and specifications, accompanied by design calculations, to be reviewed and approved by City.

(iv) Final site plans, landscape plans, building plans and other plans, reports and specifications required by the City to obtain approval.

(b) Once all approvals that are required have been obtained, the applicant may proceed with site preparation and construction in accordance with the permitted plans.

### (E) Building Permits

(1) Before a building permit for a Large Scale Development is issued the developer shall:

(a) Obtain approval from the Planning Commission for the development.

- (b) Dedicate right-of-way in compliance with the City's Master Street Plan, and in compliance with the requirements for on or off-site improvements.
  - (c) Dedicate all easements necessary to serve the development as required by the utility providers and the City. This may be completed by easement plat or separate easement document(s), with approval of the City.
  - (d) On and off-site improvements. Construct or guarantee required on- and off-site improvements in accordance with Chapter 15.
  - (e) Complete applicable conditions of approval.
  - (f) Comply with all applicable zoning and development codes.
- (F) *Certificate of Occupancy.* No certificate of occupancy for a Large Scale Development shall be issued, and no Final Plat shall be signed for recordation until the following have been completed:
- (1) The requirements for on and off-site improvements have been completed, and maintenance bonds/guarantees deposited to City specifications.
  - (2) An "as built" plot plan has been approved by the City (where applicable) showing:
    - (a) The location of all buildings and the setback distance for said buildings from street right-of-way and adjoining property lines;
    - (b) The location of any freestanding signs and the setback distance of said signs from street right-of-way and adjoining property lines;
    - (c) The location, number, dimensions, and surfacing of all parking spaces and of all screens or fences; and
    - (d) The location and size of all water, sewer, storm sewer, gas, electric, telephone, and television cable lines.
    - (e) Public and private streets and driveways.
  - (3) The development has been inspected and approved by the Building Official, the Planning Commission and the Fire Marshal.

### 6.03 Plat Requirements

(A) *Original plan drawings.* Plans shall be drawn in a legible manner, at a scale which best suits the size of the property being developed or platted. All plans shall be drawn at a standard engineering scale, and submitted in paper and/or digital form, as listed on the application.

(B) *Plat information.* The following information shall be submitted to the Planning Commission for review and approval:

(1) *General.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Name, address, zoning and property lines of all property owners adjacent to the exterior boundaries of the project.	X	X	X	X	X	X
Name, address, telephone numbers of owner(s), developer(s) and project representatives	X	X	X	X	X	X
North arrow, scale (graphic and written), date of preparation zoning classification, and proposed use.	X	X	X	X	X	X
Title block located in the lower right hand corner indicating the name and type of project, scale, firm or individual preparing drawing, date and revisions.	X	X	X	X	X	X
Provide a complete and accurate legend	X	X	X	X	X	X
A vicinity map of the project with a radius of 1.5 miles from the project..	X	X	X	X	X	X
The location of all existing structures.	X	X	X	X	X	X

(2) *Legal description.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Written legal descriptions including area in square feet or acres that read clockwise	X	X	X	X	X	X
Boundary survey of the property	X	X	X	X	X	X
Provide a benchmark, clearly defined with an accuracy of 1/100'. This benchmark must be tied to USC & GS Datum.	X	X	X			X
Point-of-beginning from a permanent well-defined reference point. This P.O.B. shall be clearly labeled on the drawing.	X	X	X	X	X	X

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adi.	Lot Split	Large-Scale
Curve data for any street which forms a project boundary.	X	X	X	X	X	X

(3) Floodplain / floodways / wetlands.

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adi.	Lot Split	Large-Scale
Show 100-yr floodplain and/or floodway and based flood elevations. Reference the FIRM panel number and effective date.	X	X	X	X	X	X
Note regarding wetlands, if applicable. Note if Army Corps of Engineers determination is in progress.	X	X				X

(4) Topographic information.

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adi.	Lot Split	Large-Scale, SIP, PZD	Concept Plat
Existing and proposed topographic information with source of the information noted.	X					X	
Spot elevations at grade breaks along existing road centerlines, gutter lines and top of curbs or edge of pavement.	X					X	
Contours of adjacent land within 100 feet of the project shall also be shown.	X					X	

(5) Utilities – existing.

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adi.	Lot Split	Large-Scale
Show on the drawing all known on-site and off-site existing utilities and easements (dimensioned) and provide the structure's locations, and types, and note them as "existing" on the plat.	X	X	X	X	X	X
Existing easements shall show the name of the easement holder and the book and page number for the easement.	X	X	X	X	X	X

(6) Utilities – proposed.

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Show all storm sewer, sanitary sewer and drainage structures: a. Provide structure locations and types b. Provide pipe types and sizes	X	X	X			X
Sanitary sewer systems: a. Provide pipe locations, sizes, and types b. Manhole locations of rim and invert elevations.	X	X	X	X	X	X
Water systems, on or near the site: a. Provide pipe locations, types, and sizes b. Note the static pressure and flow of the nearest hydrant if requested. c. Show location of proposed fire hydrants and meters.	X	X	X	X	X	X
Underground or surface utility transmission lines: (Note: This category includes, but is not limited to Telephone, Electrical, Natural Gas, and TV Cable) a. Locations of all related structures (pedestals, poles, etc.) b. Locations of all lines (note whether the line is below or above ground) c. A note shall be placed where streets will be placed under the existing overhead facilities and the approximate change in grade for the proposed street.	X	X	X			X
State the width, location, and purpose of all proposed easements or rights of way for utilities, drainage, sewers, flood control, ingress/egress or other public purposes within and adjacent to the project.	X	X	X	X	X	X

(7) Streets / right-of-ways / easements.

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Street right-of-way lines clearly labeled. The drawing shall depict any future R.O.W. needs as determined by the AHTD and Master Street Plan. Future R.O.W. as well as existing R.O.W. and center lines should be shown and dimensioned.	X	X	X	X	X	X
The location, widths, grades, and names of all existing and proposed streets, alleys, paths, and other rights-of-way, whether public or private, within and adjacent to the project; private easements within and adjacent to the project; and the radius of each centerline curve. Private streets shall be clearly indicated and named.	X	X	X	X	X	X
A layout of adjoining property (within 300') in sufficient detail to show the effect of proposed and existing streets (including those on the master street plan), adjoining lots, and off-site easements. This information can be obtained from the Master Street Plan, Aerial Photos, and the City Plat Pages.	X	X	X			X

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
The location of all existing and proposed street lights (At every intersection, cul-de-sac & every 300' and associated easements to serve each light.)	X	X	X			X

(8) *Subdivision of land.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
The lot layout, the dimensions of each lot, number of each lot, total area in square footage or acreage to the nearest one-hundredth (1/100th) acre of each lot, and the approximate finish grade where pads are proposed for building sites. Lots shall be numbered consecutively for all phases. The total number of lots shall be indicated on the plat.	X	X	X	X	X	
For phased development, a plat showing all phases is required.	X	X				X

(9) *Site specific information.*

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Note any known existing erosion problems on-site or within 300' downstream of the property.	X					X
The location of known existing or abandoned water wells, sumps, cesspools, springs, water impoundments, and underground structures within the project.	X	X	X	X	X	X
The location of known existing or proposed ground leases or access agreements, if known. (e.g. shared parking lots, drives, areas of land that will be leased)	X	X	X	X	X	X
The location of all known potentially dangerous areas, including areas subject to flooding, slope stability, settlement, excessive noise, previously filled areas and the means of mitigating the hazards (abatement wall, signage, etc.).	X					X
For non-residential development, indicate the gross floor area, and if for multiple uses, the floor area devoted to each type of use.						X
The location and size of existing and proposed signs, if any.	X	X	X	X	X	X
Location, size, surfacing, landscaping, and arrangement of parking and loading areas. Indicate pattern of traffic flow; include a table showing required, provided, and handicapped accessible parking spaces.						X

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Location and width of curb cuts and driveways. Dimension all driveways and curb cuts from side property line and surrounding intersections.						X
Location of buffer strips, fences or screen walls, where required (check Code for specific requirements).	X	X				X
Indicate location and type of garbage service. Dimension turnaround area at dumpster location.	X					X
A description of commonly held areas, if applicable.	X	X				X
A written description of requested waivers or variances from any city requirement.	X	X	X	X	X	X
Show required building setbacks.	X	X	X	X	X	X
Preliminary grading and drainage plans and reports as required.	X					X

(10) Other requirements.

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale
Signature block certifying approval for recording.		X	X	X	X	

	Preliminary Plat	Final Plat	Concurrent Plat	Property Line Adj.	Lot Split	Large-Scale, SIP, PZD	Concurrent Plat
Signature block certifying ownership, title and dedication.		X	X	X			
Signature block certifying survey and accuracy.		X	X	X			

(11) *Easement plat.*

Prior to the issuance of a building permit for a large scale development, an easement plat shall be filed of record in the office of the circuit clerk dedicating all required easements and rights-of-way.

- (C) *Signatures required.* The final plat or concurrent plat may be signed by any officer of the Planning Commission.
- (D) *Number of plats.* The City may require additional copies of plats if the amount required by this chapter is not sufficient for distribution to the various committee members.

### **6.04 Required Infrastructure Improvements – Development in City Limits**

(A) *Generally.* Required of developer.

- (1) *On and off-site improvements.* On-site improvements are adjacent to or within a project site; such as widening the street along the project street frontage, constructing interior streets and utilities, etc. Off-site improvements are not adjacent to a project; such as the extension of an off-site sewer line, off-site storm drainage improvements, or an off-site intersection improvement, etc.
- (2) *Standards applicable.* Any required on or off-site improvements in the city shall be installed according to the city's standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the development.
- (3) *Required Infrastructure Improvements.* The developer shall be required to install on and off-site improvements where the need for such improvements is created in whole or in part by the proposed development.
- (4) *Planning Commission.* At the time the Planning Commission grants development approval, the Planning Commission shall determine whether the proposed development creates a need for off-site improvements and the portion of the cost of any needed off-site improvements which the developer shall be required to bear. In determining that portion of the cost of off-site improvements which the developer shall be required to bear, the Planning Commission shall consider the acreage within the proposed development as a percentage of

all the acreage which, when fully developed, will benefit from the off-site improvements; provided, the Planning Commission may use a different method of measurement if it determines that use of the acreage standard will not result in the developer bearing that portion of the cost which bears a rational nexus to the needs created by the development.

- (5) *Determining necessity for off-site improvements.*
- (a) When a proposed development has access to paved streets or roads only by way of substandard or unimproved roads or streets leading from the development to the paved streets or roads, the developer shall be responsible for contributing this proportionate share of the cost of improving the substandard access roads or streets to existing city standards. The developer's proportionate share of said costs shall be determined by the Planning Commission in accordance with the provisions of 6.04 above.
- (b) When a proposed development has direct access to, or fronts on an existing road or street, which is below current standards, the developer shall be responsible for contributing his/her proportionate share of the cost of improving said street or road to existing city standards. The Planning Commission shall determine the developer's proportionate share of said costs in accordance with the provisions of 6.04 above.
- (c) Off-site drainage improvements shall be required whenever a proposed development causes the need for such improvements.
- (6) *Delayed Improvements.* The Planning Commission may determine a required on-site or off-site improvement shall be delayed or payment-in-lieu contributed instead in accordance with Chapter 15.
- (7) *Variances.* A variance of off-site improvements may be granted in accordance with Chapter 13 Variances.
- (8) *State highways.* The developer shall be required to dedicate sufficient right-of-way to bring those state highways which the Master Street Plan shows to abut or intersect the proposed development into conformance with the right-of-way requirements of the

Master Street Plan. The developer shall be required to install a sidewalk adjacent to that portion of a state highway abutting the proposed development; and provided that the Planning Commission may waive the sidewalk requirement prescribed by this subsection upon application by the developer and a determination by the Planning Commission that the topography of the proposed development where it abuts a state highway is such that installation of a sidewalk is not practical. Any other improvements required of the developer by the Planning Commission shall be coordinated with the Arkansas Highway and Transportation Department.

(B) *Minimum improvements by application type.* The property owner/developer shall be responsible for constructing the following minimum improvements.

(1) *Property Line Adjustment.* No improvements are required unless the action would create or exacerbate a nonconforming infrastructure situation such as cutting off a lot from public water, sewer, or street frontage. In such as case the property line adjustment may not be filed of record until the required infrastructure is first constructed to City specifications, or a variance or waiver is granted by the Planning Commission.

(2) *Lot Split.*

(a) *Dedication of right-of-way.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Planning Commission may approve a lesser dedication in the event of undue hardship or practical difficulties.

(i) *Dedications.* The City Council accepts all streets and alleys located in Elm Springs that have been previously approved and accepted as dedications by the Elm Springs Planning Commission. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Elm Springs Planning Commission.

(b) *Monuments and lot stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes

marking the corners of a parcel to be set in accordance with Section 3.2, general procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

(c) *Water, sewer, or street frontage.* Any lot that is created shall have adequate street frontage or street access that meets the minimum requirements of the zoning code, and access to public water and sewer as required by city and state code. If a lot split would create or exacerbate a nonconforming situation (such as cutting off a lot from public water, sewer, street frontage, or street access), the lot split may not be filed of record until the required easement is dedicated and/or the infrastructure is first constructed to City specifications, or a variance or waiver is granted by the Planning Commission.

(3) *Preliminary/Final/Concurrent Plat; Large Scale Development*

(a) *Dedication of right-of-way.*

(i) *On-site.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property and new streets proposed interior to the property, into conformance with the right-of-way requirements of the Master Street Plan for said streets, shall be approved by the Planning Commission; provided, the Planning Commission may approve a lesser dedication in the event of undue hardship or practical difficulties.

(ii) *Off-site.* Off-site right-of-way dedication may be required as needed to construct off-site street improvements that are required.

(iii) *Dedications.* The City Council accepts all streets in Elm Springs that have been previously approved and accepted as dedications by the Planning Commission. The City Council confirms the acceptance of all such streets dedicated by developers/owners to the city which have been approved by the Planning Commission.

(b) *Monuments and lot stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes

marking the corners of a parcel to be set in accordance with Section 3.2, general procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

(c) *Streets.*

- (i) *On-site.* Widening the street adjacent to the project frontage and construction of all interior streets to meet Master Street Plan standards. Street grading, base, and paving according to existing city standards and specifications as adopted by the City Council.
- (ii) *Off-site.* Street widening and/or new street construction off-site may be required to address traffic impacts based on the rough proportion and rational nexus of the impacts of the project. Street grading, base, and paving according to existing city standards and specifications as adopted by the City Council.
- (iii) *Private street name signs.* Where a structure is addressed on a private street or drive, the developer or property owner(s) shall be required to install, maintain, repair and replace all private street name signs. Any private street name sign existing at the time of passage of this ordinance shall be maintained, repaired and replaced as required by this section. Signs shall meet the standards of the Manual on Uniform Traffic Control Devices (MUTCD) and shall be installed at all street/drive intersections. Unless approved otherwise, all signs shall be retroreflective and utilize a white legend on a green background.
- (iv) *Public street signs.* Where a development is required to construct new public streets, the developer or property owner(s) shall be required to install all public street name signs and other traffic signs as required by the Manual of Uniform Traffic Control Devices.

(d) *Sidewalks.*

- (i) *On-site.* Sidewalks shall be installed along the property street frontage and along new interior streets according to existing city standards

and the Master Street Plan as adopted by the city Council.

- (ii) *Off-site.* Sidewalks may be required to be installed off-site based on the rough proportionality and rational nexus of the impacts of the development.

- (e) *Streetlights.* Standard 8,000 lumen streetlights (or equal alternative approved by the Planning Commission) shall be installed at each intersection or cul-de-sac and along one side of each street or cul-de-sac at intervals of no more than 300 feet; provided, streetlights of higher intensity may be required at intersections with collector streets or arterial streets. Developer are encouraged to utilize high-efficiency (LED or similar) streetlights where possible).

(f) *Grading and storm drainage system.*

- (i) The developer shall install storm drainage facilities, including drains, sewers, catch basins, and culverts necessary for the proper drainage of all surface water.
- (ii) All drainage facilities shall be so designed to serve the entire drainage area.
- (iii) All surface water drainage shall be transported to existing storm sewers, drainage facilities, or natural drainage ditches approved by the City.
- (iv) *Culverts and bridges.* Culverts and bridges shall be installed where needed in accordance with existing Arkansas State Highway Department standards and specifications.

(g) *Water supply.*

- (i) *Accessible public water supply.* When an approved public water supply is reasonably accessible, the developer shall install a system of water mains and shall connect to such supply so that each lot within the subdivision or development shall be provided with a connection to said public water supply. All connections shall be approved by the City. Individual service lines shall be installed, and individual

connections shall be made prior to the paving of the street, if possible.

- (ii) *Fire Hydrants.* Fire hydrants for residential subdivisions shall be installed so that the distance between two consecutive fire hydrants does not exceed 800 feet, and no lot is more than 400 feet from a fire hydrant. Fire hydrants for apartment complexes, commercial structures, and industrial structures shall be installed so that the distance between two consecutive fire hydrants does not exceed 600 feet; provided, the fire chief shall have the authority to require additional fire hydrants upon a determination that such additional fire hydrants are necessary to provide adequate fire protection.

(h) *Sanitary sewer system.*

- (i) *Public sanitary sewer accessible.* Where a public sanitary sewer is reasonably accessible, the developer shall connect with such sewer, and each lot within the subdivision or development shall be provided with a connection thereto. All connections shall be subject to the approval of the City. Individual service lines shall be installed, and individual connections shall be made prior to the paving of the street if possible.
- (ii) *Public sanitary sewer not accessible.* Where a subdivision, lot split, or other development is proposed to utilize either individual septic systems or an onsite wastewater treatment system the following is required:
  - a. Prior to the City signing a final or concurrent plat a letter from the Arkansas Department of Health is required indicating approval of the overall plan for the utilization of either onsite wastewater systems or individual septic permits.
  - b. Existing septic systems, sewage disposal fields (leach fields), alternate disposal fields required by state law and water wells on-site or off-site within 100 feet shall be shown on all

proposed subdivisions, lot splits, and development plans.

- c. *Community sewage systems.* The construction of community sewage systems or decentralized sewer systems shall be prohibited within the City unless expressly permitted by resolution of the City Council.

- (C) *Other infrastructure improvements.* Other infrastructure improvements may be required where the need for such improvements is created in whole or in part by the proposed development as determined by the Planning Commission.

### **6.05 Required Infrastructure Improvements – Development in Planning Area**

- (A) *Required Infrastructure Improvements in Planning Area*

On and off-site improvements for development outside the City Limits and within the planning area are the same as for those developments within the City Limits as specified in Chapter 6.04.

### **6.06 Street Design And Access Management Standards**

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- (B) *Fitness for development.* Based on topographic maps, soil surveys prepared by the Department of Agriculture, drainage and information from the Future Land Use, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property.
- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed or redeveloped where the creation of public streets are required, or proposed, or in which new or existing access is created or modified. Developments that create private streets shall utilize these standards as guidelines.
- (D) *Street design principles.*
  - (1) *Extensions.* All street extensions shall be constructed to Minimum Street Standards. Street extension stub-outs to adjacent

properties are required to meet block layout/connectivity standards unless existing development or physical barriers prohibit such.

- (2) *Substandard widths.* Developments that adjoin existing streets shall dedicate additional right-of-way to meet the Master Street Plan.
- (3) *Street names.* Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names shall not duplicate or be similar to existing street names. Developers shall coordinate the naming of new streets through the County.
- (4) *Pedestrian.* Pedestrian-vehicular conflict points should be controlled through signalized intersections and proven traffic calming design principles.
- (5) *Street standards.* All street requirements shall be met as set forth in the City of Elm Springs Master Street Plan and adopted Minimum Street Standards.

(E) *Block Layout / Connectivity.*

- (1) *Topography.* Local streets should be designed to relate to the existing topography and minimize the disturbance zone.
- (2) *Dead-end streets.* Dead end streets are discouraged and should only be used in situations where they are needed for design and development efficiency, reduction of necessary street paving, or where proximity to floodplains, creeks, difficult topography or existing barriers warrant their use. All dead end streets shall end in a cul-de-sac with a radius of 50 feet, or an alternative design approved by the City and the Fire Department. The maximum length of a dead end street (without a street stub-out) shall be 500 feet.

(F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto two public streets shall place a higher priority on accessing the street with the lower functional classification.

- (1) *Curb cut minimum distance from intersection or driveway.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the

edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb.

(a) *Principal and Minor Arterial Streets.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along arterial streets shall be shared between two or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection..

(b) *Collector Streets.* Curb cuts shall be located a minimum of 100 feet from an intersection. When possible, curb cuts along collector streets shall be shared between two or more lots.

(c) *Local and Residential Streets.* Curb cuts shall be located a minimum of 50 feet from an intersection. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection. Curb cuts shall be a minimum of fifteen (5') feet from the adjoining property line, unless shared.

(e) *Variance.* In order to protect the ingress and egress access rights to a street of an abutting property owner, a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property. Such a curb cut may be required to be shared with an adjoining parcel if feasible. If a parcel on the corner of an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.

- (2) *Speed.* All streets should be designed to discourage excessive speeds.

(G) *Non-conforming Access Features.*

(1) *Existing.* Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:

(a) When new access connection permits are requested;

(b) Upon expansion or improvements greater than 50% of the assessed property value or gross floor area or volume;

(c) As roadway improvements allow.

(H) *Easements.* Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

### **6.07 Condition Of Acceptance**

(A) The city shall not have any responsibility with respect to any street, or other improvements, notwithstanding the use of the same by the public, unless the street or other improvements have been accepted by the city.

(B) Prior to requesting final acceptance of streets and sanitary and storm sewers the developer shall furnish "as-built" drawings in reproducible form.

(C) The city shall, within 30 days after the public improvements have been offered for dedication to the city, accept the improvements, provided the improvements have been constructed in accordance with the requirements and conditions of this chapter and the specifications of the city. The developer shall furnish proof that all improvements are free of liens and debts.

### **6.08 Structures Not Allowed Within Public Easements**

(A) No portion of any building, pool (in-ground or above ground) or other immovable structure shall be built within a public utility easement.

(B) *Walls,* brick or stone fences (with or without metal portions), monument or pole signs, and other difficult to move structures may only be built within public easements if permitted by the Planning Commission after receiving written approval by all utility providers that could access the easement. The written documentation shall

be filed of record in the County Circuit Clerk's office. Any related damage or relocation of utilities or the structure in the easement shall be at the owner/developer's expense. The owner shall be responsible at his or her own expense to promptly remove any permitted structure or portion of such structure within the easement if a utility company or the City needs access. A utility company or the City may remove such structure or portion of a structure itself to avoid delaying necessary installation, maintenance or repair work without liability to the property owner who may reinstall the permitted structure at his or her own expense once the installation, repair or maintenance work is finished.

(C) Readily movable fences (field fence, barbed wire, chain link, woodboard privacy, etc.) may encroach upon non-drainage public easements. Although the property owner is legally responsible to remove a fence blocking an easement, the City or utility company may remove such fence blocking an easement if access to the easement is necessary. The City or utility company will reinstall the fence to its approximate pre-removal condition after the maintenance, installation, removal or repair of mains or utility structures is finished. Neither the City nor any utility company shall be liable for damages to any property as a result of this subsection.

(D) No fences may be installed in any drainage easement if such installation could impede the drainage through the easement.

(E) No item may be installed within a public easement that could restrict the function, visibility, or access to a utility structure such as a manhole, meter, electrical, phone, or cable box, or other structure as may be built for utility function. No item shall be placed within three feet of a fire hydrant or in any way that may restrict visibility, access or use of the hydrant, which includes the clear space around the hydrant from which a pressurized hose may extend when in use.

### **6.09 Underground Utility Wires**

(A) In the new residential developments requiring Planning Commission approval and new commercial developments all utility wires, lines, and/or cable in said developments utilized by electric and/or telecommunications companies shall be placed underground.

(B) *Waiver.* In case of hardships, (including but not limited to financial, geological, environmental, or regulatory) unique to the subject property, the Planning Commission may grant a waiver, on a permanent or temporary basis, to allow the erection, construction, installation, maintenance,

use or operation of poles and overhead wires and associated overhead structures.

- (C) *Exemptions.* The following shall be exempt from the requirements of this section:
- (1) Overhead wires, supporting structures, and associated structures of a temporary nature which provide temporary service. A permit obtained from the City for said temporary service, addressing the nature and duration of said service, shall be required.
  - (2) Existing lines of 12Kv and above.
  - (3) A single power pole near the exterior boundary of a development shall be allowed to provide connections for underground service.
- (D) Nothing herein shall be construed to usurp the authority of the Arkansas Public Services Commission and in all instances of conflict, the rules and regulations of said Arkansas Public Service Commission shall prevail.

### 6.10 Commercial Design And Development Standards

- (A) *Purposes.*
- (1) To protect and enhance Elm Springs' appearance, identity, and natural and economic vitality.
  - (2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
  - (3) To protect and preserve the scenic resources distributed throughout the city.
  - (4) To preserve the quality of life and integrate the different zones and uses in a compatible manner.
  - (5) To address the issues of traffic, safety, and crime prevention.
  - (6) To preserve property values of surrounding property.
  - (7) To provide good civic design and arrangement.
- (B) *Applicability.* Commercial design and development standards apply to all commercial and office development.
- (C) *Site development standards and Design elements for commercial structures.* The following site development standards and design

element guidelines for commercial structures shall apply when either new development or expansion of 25% of the existing building square footage occurs.

- (1) The elements to avoid or minimize include:
  - (a) Unpainted concrete precision block walls;
  - (b) Square "boxlike" structures;
  - (c) Metal siding which dominates the main facade;
  - (d) Large blank, unarticulated wall surfaces;
  - (e) Large out of scale signs with flashy colors.
- (2) *Construction and appearance design standards for commercial structures.*
  - (a) A commercial structure or development shall be designed to avoid or minimize the elements set forth in (1)(a) – (d) above.
  - (b) A commercial development which contains more than one building should incorporate a recurring, unifying, and identifiable theme for the entire development site.
  - (c) A development should provide compatibility and transition between adjoining developments.

#### Design Element Guidelines, Commercial

- (3) *Site coverage.* A maximum of 85% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface.
- (4) *Driveways.* Shared drives and cross access between properties shall be encouraged to developed and undeveloped properties.
- (5) *Setback reduction.* Required building setbacks may be reduced in accordance with the following table where no off-street parking is provided in the remaining front setback. One-way drive aisles may be permitted within the setback.

C-1 and C-2 zones	From 50 feet to 10 feet
R-O zone	From 30 feet to 25 feet

- (6) *Maintenance of vegetation.* Vegetation, under the provisions of this section, shall be continuously maintained to conform to the requirements of this section.
- (7) *Fences.* The following types, height, and location of fences shall be prohibited:
- (a) *Razor and/or barbed wire.* Razor and/or barbed wire fences are prohibited if visible from the street right-of-way or a residence, unless and except barbed wire fences are used for agricultural purposes.
  - (b) *Chain link.* Chain link fence is prohibited if closer to the street than the front of the building. Residential uses are exempt from this requirement.
  - (c) *Height of fences in front buildings.* Fences located in front of the primary structure may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the primary structure from the right-of-way.
- (D) *Buffer Strips and screening.* When review of a development requires the construction and maintenance of a buffer strip, fence, or screen wall as a condition for initiating and subsequently continuing any use, such buffer strip, fence, or screen wall shall be constructed and maintained on the lot containing or proposed to contain such use, in accordance with provisions of this chapter. The purpose of the buffer strip shall be to provide separation and enclosure of uses; the purpose of the fence to enclose uses; the purpose of the screening wall to conceal uses.
- (1) *Landscaped area.* The buffer strip landscaped area shall consist of a strip of land at least 12 feet wide which shall be adequately landscaped entirely on the lot which is required to provide the buffer strip, and so located as to serve as an effective buffer between the use required to provide the buffer strip and other property for whose protection the buffer strip is required. The buffer strip shall extend along the full length of the boundary separating the zoning lot from such other property, or from the street, as the case may be.
  - (2) *Fence required.* Required fences shall be of a wood or chain link type (barbed wire not permitted) not less than six (6) feet high, constructed of good, substantial material, of first-class workmanship, and so erected as to resist wind pressure, ensure public safety, and present a neat, attractive uniform appearance.
- (3) *Screen required.* Screening shall mean a view obscuring fence, view obscuring berm, view obscuring architectural treatment, or view obscuring vegetation, or combination thereof, of sufficient height to prevent the view of the screened items from vehicular and pedestrian traffic on adjacent streets, and from residential property. Vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting.
- (4) Mechanical and utility equipment and trash enclosures shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:
- (a) *Mechanical and utility equipment.* All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks.
  - (b) *Trash enclosures.* Trash enclosures shall be screened with materials that are compatible with and complementary to the principal structure, with access not visible from the street.
- (5) Outdoor storage of material and equipment shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:
- (a) At the expense of the owner or lessee of the property, and in all zones, the following uses shall be completely surrounded by a view obscuring fence or by view obscuring vegetation, or a combination of the two, of sufficient height to prevent the view of the premises from vehicular and pedestrian traffic on adjacent streets: outdoor storage yards, including but not limited to, auto salvage yards, scrap metal yards, used furniture yard and garbage dumps.
  - (b) Where vegetation is used to meet the requirements of this subsection, the vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of

planting. If vegetation planted under this subsection does not become view-obscuring within two years, a view-obscuring fence shall be installed.

- (c) *Exceptions:* The outdoor display of materials or equipment solely for sale or lease, such as automobiles, seasonal garden supplies, etc. shall not be required to be screened as set forth in subsection (a) above.
- (6) *Non-residential adjacent to residential zones.* A view-obscuring fence or view-obscuring vegetation, or a combination of the two, shall be required between residential uses and all nonresidential uses (including access drives and parking lots for five (5) or more cars accessory to any use).
- (7) *Mini-storage.* At the expense of the owner of the property, all storage units and storage yards for mini-storage created under Use Unit 38 shall be required to be screened by view obscuring vegetation when the storage yards or the storage units have common property lines with any residential use or zone and when they have frontage on any public street. Vegetation used for screening purposes shall be planted at a density sufficient to become view obscuring within two years from the date of planting and it shall be the responsibility of the property owner to maintain the screening throughout the life of the use of the property as mini-storage.

(E) *Design review.*

- (1) *Submittals.* The following drawings, information, and plans shall be submitted to the Planning Commission for design review and approval with large scale development applications, when applicable.
  - (a) *Elevations.* Rendered elevation drawing of all facades showing adjoining context and a description of external building materials.
  - (b) *Materials sample.* A sample of exterior materials to be used for the proposed structure that indicates texture, color and type of materials.
  - (c) *Landscaping.* Proposed landscaping to be used as screening shall be shown on the landscape plan.
- (2) *Build out.* Upon approval of a large scale development, or issuance of a building

permit, build-out of the project shall conform to the drawings, information, and plans approved.

- (a) *Amendments.* Amendments to the drawings, information, and plans shall be submitted to the City. Amendments which are determined to be insignificant or minor may be approved by the Building Official. Significant amendment shall be approved by the Planning Commission.
- (b) *Review.* Amendments shall be considered using the same standards as the initial design approval.
- (c) *Noncompliance.* Failure to build-out the project according to the approved drawings, information, and plans, or approved amendments thereto, shall render the large scale development approval, or the building permit approval void.

(F) *Variances.* (See Chapter 13.)

## 6.11 Application For Building Permit

- (A) *Application.* All applications for building permits shall be accompanied by plans in duplicate drawn to scale showing:
  - (1) The actual dimensions and shape of the lot to be built upon;
  - (2) The exact sizes and locations on the lot of buildings already existing, if any;
  - (3) The location and dimensions of the proposed building or alteration;
  - (4) The application shall include such other information as lawfully may be required, including:
    - (a) Existing or proposed building or alteration;
    - (b) Existing or proposed uses of the building and land;
    - (c) The number of families, housekeeping units, or rental units the building is designed to accommodate;
    - (d) Conditions existing on the lot; and
    - (e) Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this chapter.

- (f) Location of existing and/or proposed driveways.

(B) *Expiration of building permit.*

- (1) *Begin work.* If the work described in any building permit has not begun within 180 days after the date of issuance thereof, said permit shall expire. It shall be canceled by the building official and written notice thereof shall be given to the persons affected.
- (2) *Substantial completion.* If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereon, said permit shall expire and be canceled by the building official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

## 6.12 Construction To Be As Provided In Application, Plans, And Permits

Building permits issued on the basis of plans and applications approved by the City authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

## 6.13 Master Street Plan Setbacks

The city shall require the applicant/developer to establish a right-of-way setback line based on the right-of-way requirements for streets and highways designated by the Master Street Plan. Such setback line shall be considered the property line for such purpose of satisfying the requirements of development regulations. All building setbacks, required landscaping, parking lots, display areas, storage areas and other improvements and uses shall be located outside of such established setback area. The required width of setbacks, landscaped areas, buffers, and all other setback requirements shall be dimensioned from the established right-of-way setback line. The establishment of any new structure or other improvements within the right-of-way setback is prohibited.

## 6.14 Expiration Of Approved Plans And Permits

(A) *Applicability.* The provisions of this section apply to all of the following plans and permits:

- (1) Preliminary plats;

- (2) Conditional uses;
- (3) Large-scale developments;
- (4) Lot splits;
- (5) Grading permits;
- (6) Floodplain development permits.

(B) *Time limit.*

- (1) Tasks to be completed. All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:
  - (a) For any renovation or new construction, receive all building permits for the project; and/or,
  - (b) For a lot split, record a deed or survey at the Washington or Benton County Circuit Clerk's Office, stamped for recordation by the City; and/or,
  - (c) Receive all permits and approvals required by City, County, State, and Federal regulations to complete construction of the development or project.
- (2) *Planning Commission Extension Within One Year.* Prior to the expiration of the one (1) year time limit, an applicant may request the Planning Commission to extend the period to accomplish the tasks by up to one (1) additional year. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit.
- (5) *Ordinance Amendments.* To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval.
- (6) *Variances.* Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
- (7) *Expiration.* If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension

period, all of the above-enumerated plans and permits shall be rendered null and void.

(C) *Three-year time limit.*

(1) *Tasks to be complete.* All of the above-enumerated plans and permits are also conditioned upon the applicant completing the project and receiving final inspection approval and/or a final Certificate of Occupancy permit within three (3) years from the date of issuance of a building permit or receipt of all permits and approval required to complete construction of the project.

(2) *Extensions.* Prior to the expiration of the three (3) year time limit, an applicant may request the Planning Commission to extend the three (3) year period to complete the project by up to one (1) additional year. The applicant has the burden to show good cause why the project could not reasonably be completed within the three (3) year time limit.

(3) *Expiration.* If the applicant fails to meet the requirements of subsection (C)(1) within three (3) years from the date of issuance of a building permit/receipt of all permits and approval required or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.