

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 004-056

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING APPENDIX B, "SUBDIVISIONS," OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING ORDINANCE NO. 261 OF THE CITY, BY AMENDING SECTION III, "DEFINITIONS," TO AMEND THE DEFINITION OF THE TERM "SUBDIVISION" AND ADD A DEFINITION FOR THE TERM "PLAT; AMENDING SECTION VI, "ZONING," BY PROVIDING THAT ALL SUBDIVISIONS MUST CONFORM TO APPLICABLE ZONING REGULATIONS; AMENDING SECTION XVII BY AUTHORIZING THE DIRECTOR OF DEVELOPMENT SERVICES TO APPROVE CERTAIN AMENDING PLATS; AMENDING SECTIONS IV, VII, VIII, IX, X, XI, AND XII AS SET FORTH HEREIN; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, approval of plats that do not conform to applicable zoning regulations disrupts orderly development and creates nonconformities; and

WHEREAS, the City Council of the Town of Addison, Texas, desires to amend the City's subdivision regulations to require that plats be drawn to conform to applicable zoning regulations in order to maintain orderly development and avoid the inadvertent creation of nonconforming developments; and

WHEREAS, Section 212.0065 of the Texas Local Government Code provides that the governing body of a municipality may delegate the ability to approve certain amending plats to one or more City officers or employees; and

WHEREAS, the City Council desires to amend the subdivision regulations to delegate the ability to approve certain amending plats to the City's Director of Development Services; and

WHEREAS, in addition to the above, the City Council desires to amend the subdivision regulations as otherwise set forth herein; and

WHEREAS, the City Council, in accordance with state law and the applicable ordinances of the City, has given the required notice and held the required public hearing regarding this amendment to the Code of Ordinances; and

WHEREAS, the City Council finds that it is in the public interest to make this amendment to the subdivision regulations; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. That the above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. That Section III, "Definitions," of Appendix B, "Subdivisions," of the Code of Ordinances of the Town of Addison, Texas (the "City"), the same being Ordinance No. 261 of the City, is amended to read as follows:

"Section III. Interpretations and Definitions.

For purposes of this appendix B, and when not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

For purposes of this appendix B, the following terms, phrases, words and their derivations shall have the meanings set forth below:

- A. *City or town* shall mean the Town of Addison, Texas.
- B. *City council or council* shall mean the city council of the Town of Addison, Texas.
- C. Plat shall mean the graphic presentation of one or more lots or tracts of land, or of a subdivision, resubdivision, combination, or recombination of lots or tracts. "Plat" includes a replat and an amending plat.
- D. *Subdivision* shall mean the division of any tract or parcel of land into two or more lots for the purpose, whether immediate or future, of sale or building development, and shall include resubdivision. "Subdivision" shall also mean the division or redivision of an existing subdivision together with any change of lot size therein or with the relocation of any street. "Subdivision" shall also mean the combination of lots or tracts into one or more lots, and shall include recombination. "Subdivision" shall also mean a tract of land intended to be built upon and for which a building permit is required."

Section 3. That Section IV, "Procedures for subdivision," of Appendix B, "Subdivisions," of the Code of Ordinances of the City is amended to read as follows:

"Section IV. Procedures for subdivision.

In order to allow orderly processing of proposed subdivisions, the procedures discussed in the following sections shall be used. In general, the steps necessary for subdivision include:

- A. Annexation by the city council.
- B. Zoning by the planning and zoning commission and the city council.
- C. Approval of a land study by the planning and zoning commission and the city council.

D. Approval of preliminary plat and plans by the planning and zoning commission.

E. Approval of the final plat by the planning and zoning commission and the city council.

F. Approval of the final plans by the director of public works or his designated agent.

G. Filing of approved plat with the Dallas County clerk and recording of all executed easements, dedications and other documents required to be filed of record.

H. Completion of construction and acceptance of all improvements by the town.

This procedure may be varied at the discretion of the director of development services. For those areas to be subdivided which lie outside of the corporate limits but are being submitted only for review and approval to satisfy the requirements of extraterritorial jurisdiction and V.T.C.A., Local Government Code ch. 212, the provisions concerning annexation and zoning may be deleted. All other provisions shall remain in force.”

Section 4. That Section VI, "Zoning," of Appendix B, "Subdivisions," of the Code of Ordinances of the City is amended to read as follows:

“Section VI. Zoning.

All subdivisions, as proposed or reflected in any plat, replat, amending plat, or otherwise, must conform to all applicable zoning regulations. A subdivision submission reflecting a condition not in conformity with applicable zoning regulations shall not be approved until any available relief from the board of adjustment has been finally obtained. If the property is not zoned as required for the proposed subdivision, permanent zoning shall be requested. Application for zoning includes completion of application forms, payment of required fees, and performance of other requirements of the zoning ordinance and the rules and regulations of the town, as the same may be, from time to time, passed or amended.”

Section 5. That Section VII, “Land Study,” of Appendix B, “Subdivisions,” of the Code of Ordinances of the City, is amended by amending the first printed paragraph to read as follows:

“In the development of a large area, either by sections or as one subdivision, the developer must submit a land study to the development services department. Submittal shall include a letter of transmittal requesting review and payment of the required filing fee.”

All other paragraphs and provisions of Section VII shall remain unchanged.

Section 6. That Section VIII, "Preliminary Plat and Plans," of Appendix B, "Subdivisions," of the Code of Ordinances of the City, is amended by amending the first printed paragraph to read as follows:

"The developer shall submit preliminary plat and plans of the subdivision to the development services department. Submittal shall include a letter of transmittal requesting review and the required filing fees."

All other paragraphs and provisions of Section VIII shall remain unchanged.

Section 7. That Section IX, "Final Plat and Plans," of Appendix B, "Subdivisions," of the Code of Ordinances of the City, is amended to read as follows:

"The developer or his engineer shall submit the final plat and complete construction plans to the development services department for review. Submittal shall include a letter of transmittal requesting review and payment of the required filing fees.

Once submitted, the director of development services shall check and verify the plat, or shall cause the plat to be checked and verified by appropriate and qualified personnel, as to its completeness and compliance with all requirements within 10 days of its submission. If the final plat is incomplete or does not comply with all requirements, it shall be deemed not to have been submitted or filed until any and all deficiencies are corrected. The official date of filing shall be the date that the director of development services or the director's designee confirms that the plat is complete and complies with all requirements. The director or the director's designee shall provide to the applicant a written confirmation of his or her determination, which shall provide the official date of filing and specify the meeting of the planning and zoning commission scheduled for review of the final plat. If the director or the director's designee determines that the plat is incomplete or does not meet all requirements, he or she shall provide written confirmation of the determination and the reasons therefore. If the applicant disagrees with a determination that the plat does not comply with all requirements, the applicant shall submit a written objection to the director within five business days of the postmark date of the written confirmation. If a written objection is submitted, the director shall schedule the plat for consideration by the planning and zoning commission. The official filing date for any plat that is not checked and verified as to its completeness within 10 days of its submission shall be the 11th day after its submission.

The final plat shall conform to the approved preliminary plat where applicable, and shall contain the following:

- A. The boundary lines with accurate distances and bearings and the exact location and width of all existing or recorded streets intersecting the boundary of the tract.
- B. True bearings and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat; municipal, township, county, or section lines accurately tied to the lines of the subdivision by distances and bearings.
- C. An accurate location of the subdivision with reference to the abstract and survey records of Dallas County.
- D. The exact layout including:
 - 1. Street names;
 - 2. The length of all arcs, radii internal angles, points of curvature, length, and bearing of the tangents;
 - 3. All easements for rights-of-way provided for public services or utilities and any limitations of the easements; and
 - 4. All lot numbers and lines with accurate dimensions in feet and hundredths of feet and with bearings and angles to street and alley lines.
- E. The accurate location, material, and approximate size of all monuments.
- F. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.
- G. Setback building lines.
- H. Private restrictions.
- I. Proposed name of the subdivision.
- J. Name and address of the subdivider.
- K. North point, scale and date.
- L. Certification by a registered professional surveyor to the effect that the plat represents a survey made by him and that all the monuments shown thereon actually exist, and that their location, size, and material description are correctly shown.

- M. Proof of ownership of the property.
- N. A certificate of ownership and dedication of all streets, fire lanes, alleys, parks and playgrounds to public use forever, signed and acknowledged before a notary public by the owner and lienholder of the land along with complete and accurate description of the land subdivided and the streets dedicated.
- O. Names of lenders and lienholders on the property.
- P. Additional certificates to properly dedicate easements or right-of-way as may be necessary and in the form as required by the town. Such easement certificates shall be in the following form, which form shall be required to be attached to and made a part of the final plat:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That _____ ("Owner") does hereby adopt this plat designating the hereinabove property as _____, an addition to the Town of Addison, Texas, and subject to the conditions, restrictions and reservations stated hereinafter, owner dedicates to the public use forever the streets and alleys shown thereon.

The easement shown on this plat are hereby reserved for the purposes as indicated, including, but not limited to, the installation and maintenance of water, sanitary sewer, storm sewer, drainage, election, telephone, gas and cable television. Owner shall have the right to use these easements, provided, however, that it does not unreasonably interfere or impede with the provision of the services to others. Said utility easements are hereby being reserved by mutual use and accommodation of all public utilities using or desiring to use the same. An express easement of ingress and egress is hereby expressly granted on, over and across all such easements for the benefit of the provider of services for which easements are granted.

Any drainage and floodway easement shown hereon is hereby dedicated to the public's use forever, but including the following covenants with regards to maintenance responsibilities. the existing channels or creeks traversing the drainage and floodway easement will remain as an open channel, unless required to be enclosed by ordinance, at all times and shall be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage and floodway easement. The town will not be responsible for the maintenance and operation of said creek or creeks or for any damage or injury of private property or person that results from the flow of water along said creek, or for the control of erosion. No obstruction to the natural flow of water runoff shall be permitted by construction of any type building, fence or any other structure within the drainage and floodway easement. Provided, however, it is understood that in the event it becomes necessary for the town to

channelize or consider erecting any type of drainage structure in order to improve the storm drainage, then in such event, the town shall have the right, but not the obligation, to enter upon the drainage and floodway easement at any point, or points, with all rights of ingress and egress to investigate, survey, erect, construct or maintain any drainage facility deemed necessary by the town for maintenance or efficiency of its respective system or service.

Water main and sanitary sewer easements shall also include additional area of working space for construction and maintenance of the systems. Additional easement area is also conveyed for installation and maintenance of manholes, cleanouts, fire hydrants, water service and sewer services from the main to curb or pavement line, and the descriptions of such additional easements herein granted shall be determined by their locations as installed.

This plat is approved subject to all platting ordinances, rules, regulations and resolutions of the Town of Addison, Texas.

The construction plans shall be prepared by or under the supervision of a registered professional engineer in the State of Texas and shall bear his seal on each sheet.

The plans shall contain all necessary information for construction of the project, including screening walls. All materials specified shall conform to the standard specifications of the Town of Addison.

Each sheet of the plans shall contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made.

After review of the plat and plans by the public works department and town engineer, the plat and plans shall be submitted to the planning and zoning commission and the city council for their consideration. If approved by those bodies subject to changes, the engineer for the owner shall make all changes required. The director of public works or his designated agent will approve all plans and return sufficient approved sets of the plans to the engineer for the owner for use by the contractors. Each contractor shall maintain one set of the plans, stamped with town approval, on the project at all times during construction.”

Section 8. That Section X, “Filing of Plat,” of Appendix B, “Subdivisions,” of the Code of Ordinances of the City is amended to read as follows:

“Section X. Filing of plat.

After approval of the final plat by the planning and zoning commission and the city council, and correction of the plat as required by those bodies and the

development services department, the developer or his engineer shall submit to the development services department the required number of copies for filing, along with all tax certificates required for recording by the county clerk. These copies shall bear all signatures but those of the Town officials. After signature by the Town officials, the development services department shall complete the filing process and return two filed copies to the developer or his engineer. Said copies shall show the volume and page of the map and plat records into which the plat was filed by the county clerk."

Section 9. That Section XI, "Submittals Required For Construction," of Appendix B, "Subdivisions," of the Code of Ordinances of the City is amended by amending Paragraphs B, C and E to read as follows:

- "B. All required contract documents shall be completed and filed with the public works department.
- C. All necessary easements or dedications not shown on the final plat must be completed, properly signed, and filed with the county clerk. The original of the filed documents, bearing the stamp of the county clerk, shall be filed with the development services department.
- E. If required by the director of the public works department, all parties participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work."

Section 10. That Section XII, "Subdivision Construction," of Appendix B, "Subdivisions," of the Code of Ordinances of the City is amended to read as follows:

"Section XII. Subdivision construction.

Construction shall be supervised by public works department personnel. Completion of construction to the approved plans and standard specifications of the Town of Addison is the entire responsibility of the developer and the contractors. The responsibility of the public works department is to assure conformance to the approved plans and specifications. Any change in design required during construction shall be made by the engineer whose seal and signature are shown on the plans and shall be approved by the director of public works."

Section 11. That Section XVII of Appendix B, "Subdivisions," of the Code of Ordinances of the City, is amended to read as follows:

"Section XVII. Minor Amendments and Corrections.

- A. Amending plats may be approved by the Director of Development Services when submitted for 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 City, including lot numbers, acreage, street names, and identification of adjacent recorded plats; and
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.
- B. The director may, for any reason, elect to present an amending plat to the city planning and zoning commission for review and recommendation to the city council.
- C. The director shall not disapprove an amending plat, but must refer any plat which the director refuses to approve to the city planning and zoning commission for review and recommendation to the council within the required time period for approval of plats.”

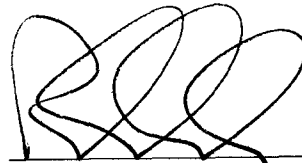
Section 12. That this Ordinance shall be cumulative of all other ordinances of the City affecting platting and subdivisions and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this ordinance.

Section 13. That the sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in

this ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares that it would have adopted such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 14. That this Ordinance shall take effect immediately from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, this 14th day of December, 2004.



Mayor R. Scott Wheeler

ATTEST:



Carmen Moran, City Secretary

PUBLISHED ON: _____