

ORDINANCE NO. 22-19

AN ORDINANCE OF THE CITY OF BRECKENRIDGE, TEXAS AMENDING CHAPTER 18, "SUBDIVISIONS", OF THE BRECKENRIDGE CODE OF ORDINANCES BY ADDING SECTION 18-18, "REPLATTING" AND SECTION 18-19, "AMENDING PLATS"; ADOPTING REGULATIONS REGARDING REPLATTING AND AMENDING PLATS OF LAND WITHIN THE CITY; PROVIDING A PENALTY; PROVIDING REPEALER AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Breckenridge, Texas (the "City") is a home-rule city operating pursuant to its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution;

WHEREAS, the City has the power to adopt ordinances "necessary to protect health, life, and property" within the City, as long as those ordinances are not inconsistent with State law, pursuant to Section 3.2 of the Charter;

WHEREAS, Section 212.002 of the Texas Local Government Code provides that a city "may adopt rules governing plats and subdivisions of land...to promote the health, safety, morals, or general welfare...and the safe, orderly, and healthful development of the municipality", after holding a public hearing on the matter;

WHEREAS, pursuant to this authority, the City Commission of the City of Breckenridge (the "City Commission") has adopted Chapter 18, "Subdivisions", of the Breckenridge Code of Ordinances and staff has recommend that a process for replatting be added to said Chapter to provide guidance for the handling replats of already platted land and amended plats that may be filed in the future; and

WHEREAS, after holding a public hearing on this ordinance on December 6, 2022, the City Commission finds that adopting the replatting and amended plat procedures contained in this Ordinance promotes the safe, orderly, and healthful development of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BRECKENRIDGE, TEXAS THAT:

I. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

II. Amendment to Chapter 18 – Section 18-18. Chapter 18, "Subdivisions", of the Breckenridge Code of Ordinances is hereby amended by adding Section 18-18, "Replating", to read in its entirety as follows:

Sec. 18-18. Replating.

(a) **Required.** Any person who wishes to replat a subdivision plat which has been previously filed for record must make an application of the proposed replat to the City.

(b) Requirements. The replat of the subdivision shall meet all the requirements for a subdivision contained in this Chapter that apply to the replat. However, if the replat does not require any appreciable alteration or improvement of utility installations, streets, alleys, building setback lines, etc., then no engineering plans will be required.

(c) Notice and Hearing Required. In the event the proposed replat involves property which has been previously developed or zoned as “R-1” or “R-1-A”, Single Family Dwelling District, or “R-2”, Two-Family Dwelling District and the proposed replat requires a variance or exception, the following special requirements apply:

(1) After an application is filed for a replat, the City Secretary shall cause a notice of the application to be published in the official newspaper of the City at least fifteen (15) days before the date of the Planning and Zoning Commission meeting at which it is to be considered. Such notice must include a statement of the time and place at which the Planning and Zoning Commission will meet to consider the replat and hear protests to the replat at a public hearing and the date of the City Commission meeting at which the replat will be considered. Additionally, written notice must be sent to all owners of property located within two hundred (200) feet of the property upon which the replat is requested. Such notice may be served by depositing the notice, properly addressed and postage paid, at the local post office.

(2) If twenty percent (20%) or more of the property owners to whom notice has been required to be given above file a written protest of the replatting before or at the public hearing before the Planning and Zoning Commission, then the affirmative vote of at least three-fourths (3/4) of the City Commission is required to approve the replat.

(d) Notice Required. In the event the proposed replat involves property which has been previously developed or zoned as “R-1” or “R-1-A”, Single Family Dwelling District, or “R-2”, Two-Family Dwelling District and the proposed replat does not require a variance or exception, the City shall provide written notice to all owners of property located within two hundred (200) feet of the lots to be replatted within fifteen (15) days after the date the replat is approved. The notice shall include the zoning designation of the property after the replat and a telephone number and email address an owner of a lot may use to contact the City about the replat.

III. Amendment to Chapter 18 – Section 18-19. Chapter 18, “Subdivisions”, of the Breckenridge Code of Ordinances is hereby amended by adding Section 18-19, “Amended Plats”, to read in its entirety as follows:

Sec. 18-19. Amended Plats.

(a) A person who wishes to amend a plat for the circumstances described in subsection (b), below, may make an application to the City. Approval of other owners of lots in the subdivision plat is not required unless specifically noted in subsection (b). The amended plat must be approved by the Planning and Zoning Commission and the City Commission, but no notice or public hearing is required.

(b) A plat may be amended if signed only by the applicant(s) 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 City, 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 part of the subdivision covered by the preceding plat if:
 - (A) The changes do not affect applicable zoning and other ordinances of the City;
 - (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 has been approved as a residential improvement area;
- (11) To replat one or more 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.

IV. Repeal. Any prior ordinances or ordinance provisions are hereby repealed to the extent they are in conflict with the terms of this Ordinance. Any remaining provisions of said ordinances shall remain in full force and effect.

V. Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Breckenridge hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, clauses, or phrases be declared unconstitutional or invalid.

VI. Effective Date. This Ordinance shall become effective immediately upon its adoption and after publication as required by law.

PASSED, APPROVED, AND ADOPTED on this the 6th day of December 2022.

ATTEST:

Bob Sims, Mayor

Jessica Sutter, City Secretary

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