

ORDINANCE

AN ORDINANCE OF THE CITY OF BURLESON, TEXAS, AMENDING ARTICLE 2, “PLATTING POLICIES” AND ARTICLE 3, “PLAT REQUIREMENTS” OF APPENDIX A, “SUBDIVISION AND DEVELOPMENT,” OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS, BY PROVIDING FOR ADMINISTRATIVE PLAT APPROVALS IN CERTAIN CIRCUMSTANCES; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas (the “City”) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the 88th Regular Session of the Texas Legislature adopted House Bill 3699, codified in Chapter 212 of the Texas Local Government Code, granting municipalities the authority to delegate the approval, approval with conditions, or disapproval of plats to designated officers or employees; and

WHEREAS, the City Council recognizes the benefits of streamlining administrative processes while maintaining prudent oversight of plat approvals; and

WHEREAS, pursuant to Section 2-4(b) of the Code of Ordinances, City of Burleson, Texas, the City Council must consider and approve ordinance amendments at two separate sessions of the City Council unless an exception applies, and no such exception applies to amendments of the City’s subdivision ordinance; and

WHEREAS, the City Council has determined that the proposed ordinance amendment promotes the health, safety, and general welfare within the City and is in the best interest of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, THAT:

SECTION 1.

Section 2.5, “Completeness determination and expiration of permits and plats,” of Article 2, “Platting Policies,” of Appendix A, “Subdivision and Development,” of the Code of Ordinances, City of Burleson, Texas, is hereby amended by revising Subparagraph (a)(2)b. and Subsection (a)(3) to read as follows:

“§ 2.5. Completeness determination and expiration of permits and plats.

(a) Requirements for completeness determination.

* * *

(2) No application shall . . .

* * *

- b. Every item, study, and document required by this appendix for the type of plat being submitted, to the extent consistent with state law; and

* * *

(3) The city manager and/or the development services director and public works director may from time to time identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in this appendix and with state law.

* * *.”

SECTION 2.

Section 2.6(b), “Schedule,” and Section 2.6(c), “Plats with reserved authority comments,” of Article 2, “Platting Policies,” of Appendix A, “Subdivision and Development,” of the Code of Ordinances, City of Burleson, Texas, are hereby amended to read as follows:

“(b) Review by the city.

- (1) Acceptance. The plat application is considered filed upon the determination that (a) the plat either (i) meets the requirements of the ordinance or (ii) meets most of the requirements of the ordinance and an exception or modification to any remaining ordinance requirement(s) has been requested by the applicant, and (b) when all application fees are paid.

- (2) Administrative review. Consideration of a plat shall be performed by the administrative official, unless an exception or modification is requested.

- a. Items for consideration. The administrative official shall, in their action on the plat, consider the physical arrangement of the subdivision, including the alignment and configuration of street and thoroughfare rights-of-way and determine compliance with the land use plan, thoroughfare plan, and any other applicable components of the comprehensive plan. The administrative official shall also review and recommend that appropriate easements be proposed or future utility service and surface drainage are provided, and that the lot size and area comply with the minimum requirements of this Code

according to the property's zoning classification and type of sanitary sewage disposal proposed.

- b.** Action. Following review of the plat, including changes deemed advisable and the kind and extent of improvements to be made by the subdivider, the administrative official shall act thereon as submitted, and, if approved, the administrative official shall express their approval as approved or conditionally approved and state the conditions of such approval, or if disapproved, shall express their disapproval and the reasons therefor. The administrative official shall act on the plat within 30 days after the date the plat is filed or such longer period as permitted by law, unless the applicant voluntarily requests in writing that action on the plat be tabled or continued.
 - c.** Conditional approval or disapproval. Plats that are conditionally approved or disapproved by the administrative official shall be returned to the subdivider with a written statement that clearly articulates each specific condition for the conditional approval or reason for the disapproval. Each condition or reason specified may not be arbitrary, must be directly related to the requirements under subchapter A of Chapter 212, Texas Local Government Code, and must include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval.
 - d.** Applicant response to conditional approval or disapproval. After the administrative official's conditional approval or disapproval of a plat, the subdivider may submit a written response that satisfies each condition for the conditional approval or remedies each reason for the disapproval. The administrative official shall review any submitted revisions that were required under subsection (c) of this section and determine whether to approve or disapprove the subdivider's previously conditionally approved or disapproved plat, pursuant to the guidelines set forth in subsection (c). If the revised plat is still not in compliance with city standards or requirements, a disapproval of the submittal must be issued no later than the 15th day after the date the response was submitted.
 - e.** Right to appeal. Applicants shall have the right to appeal administrative decisions to the city's planning and zoning commission. The administrative official shall place the appeal on the planning and zoning commission's agenda with a report summarizing the administrative official's decision.
- (3) Planning and zoning commission.** Review of a plat shall be required by the city's planning and zoning commission when an exception or modification is requested, or when an applicant files an appeal of the administrative official's decision.

- a. Items for consideration. The planning and zoning commission shall, in its action on the plat, consider the physical arrangement of the subdivision, including the alignment and configuration of street and thoroughfare rights-of-way and determine compliance with the land use plan, thoroughfare plan, and any other applicable provisions of the comprehensive master plan, taking into consideration the recommendations of city staff. The planning and zoning commission shall also review and recommend that appropriate easements for proposed or future utility service and surface drainage are provided, and that the lot size and area comply with the minimum requirements for the type of sanitary sewage disposal proposed.
 - b. Action. Following review of the plat and other materials submitted for conformity to the regulations of this article, including changes deemed advisable and the kind and extent of improvements to be made by the subdivider, the planning and zoning commission shall act thereon as submitted or modified and express its recommendation as approved, conditionally approved, or disapproved. Conditional approval or disapproval shall include the conditions of such approval or reasons for disapproval, if any. The planning and zoning commission shall act on the plat within 30 days after the date the plat is filed or such longer period as permitted by law, unless the applicant voluntarily requests in writing that action on the plat be tabled or continued.
 - c. Notation of action. A notation of the action taken and requisite reasons therefor shall be entered in the records of the planning and zoning commission.
- (c) Plats with reserved authority comments. Neither the administrative official nor the planning and zoning commission shall have the power to act on matters of reserved authority as identified in this appendix. If a plat with appealed reserved authority comments is otherwise approved by the administrative official or recommended for approval by the planning and zoning commission, it shall be sent to the city council for action within 30 days after the administrative official's approval or the planning and zoning commission's action on the plat. For the purposes of joint authority over appealed reserved authority comments, the administrative official and the planning and zoning commission shall be deemed to concur with the action of the council."

SECTION 3.

Section 3.2(5), "Approval of preliminary plats," Section 3.3(3), "Approval of final plats," and Section 3.6(4), "Approval of replats," of Article 3, "Plat Requirements," of Appendix A, "Subdivision and Development," of the Code of Ordinances, City of Burleson, Texas, are hereby amended to read as follows:

"§ 3.2. Preliminary plat.

* * *

- (5) Approval of preliminary plats. All preliminary plat approvals shall be subject to the procedures for approval of subdivisions set forth in article 2 of this appendix, in conjunction with the following provisions specific to preliminary plats:

- a. Development assistance committee. The preliminary plat shall be examined by the DAC for compliance with city ordinances. The DAC may make comments to assist the developer in meeting the requirements of this appendix. Upon determination of the administrative official that the plat substantially meets the ordinance requirements, the preliminary plat will be reviewed in accordance with article 2 of this appendix, as well as the following provisions specific to preliminary plats. If all DAC comments have not been addressed before the administrative official determines that the plat substantially meets the ordinance requirements, the preliminary plat will be reviewed subject to such comments.

* * *

§ 3.3. Final plat.

* * *

- (3) Approval of final plats. All final plat approvals shall be subject to the procedures for approval of subdivisions set forth in article 2 of this appendix, in conjunction with the following provisions specific to final plats:

- a. Development assistance committee. The final plat shall be examined by the DAC for compliance with city ordinances. The DAC may make comments to assist the developer in meeting the requirements of this appendix. Upon determination of the administrative official that the plat substantially meets the ordinance requirements, the final plat will be reviewed in accordance with article 2 of this appendix, as well as the following provisions specific to final plats. If all DAC comments have not been addressed before the administrative official determines that the plat substantially meets the ordinance requirements, the final plat will be reviewed subject to such comments.

* * *

§ 3.6. Replat.

* * *

- (4) Approval of replats. All replat approvals shall be subject to the procedures for approval of subdivisions set forth in article 2 of this appendix, in conjunction with the following provisions specific to replats:

- a. Development assistance committee. The replat shall be examined by the DAC for compliance with city ordinances. The DAC may make comments to assist the developer in meeting the requirements of this appendix. Upon determination of the administrative official that the plat substantially meets the ordinance requirements, the replat will be reviewed in accordance with article 2 of this appendix, as well as the following provisions specific to replats.

* * * .”

SECTION 4.

This Ordinance shall be cumulative of all provisions and ordinances of the Code of Ordinances, City of Burleson, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6.

Any person, firm, or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-14 of the Code of Ordinances, City of Burleson, Texas. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 7.

All rights and remedies of the City of are expressly saved as to any and all violations of the provisions of the Code of Ordinances, City of Burleson, Texas as amended, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 8.

The City Secretary of the City is hereby directed to publish the caption and penalty clause of this Ordinance as required by Section 36 of the City's Home Rule Charter.

SECTION 9.

This Ordinance shall be in full force and effect from and after its passage and publication, and it is so ordained.

PASSED AND APPROVED:

First Reading: the _____ day of _____, 20_____.

Second Reading: the _____ day of _____, 20_____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM & LEGALITY:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney