

## CITY OF DRIPPING SPRINGS

### ORDINANCE No. 2021-\_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 28, EXHIBIT A, SUBDIVISION ORDINANCE OF THE DRIPPING SPRINGS CODE OF ORDINANCES; UPDATING REGULATIONS RELATED TO RESTRICTIONS AND COVENANTS ON PLATS RELATED TO PLAT VACATIONS; PROVIDING FOR THE FOLLOWING: RULES; STANDARDS; PROCEDURES; CRIMINAL PENALTIES; AND, SEVERABILITY

- WHEREAS,** the City Council of the City of Dripping Springs (“City Council”) seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality, including its extraterritorial jurisdiction; and
- WHEREAS,** the City Council finds that haphazard laying out of lots and erratic dedication of public infrastructure is harmful to the environment and quality of life; and
- WHEREAS,** the City Council acknowledges that subdivision controls are based on the land registration system, and that land registration is a privilege that local governments such as Dripping Springs have the power to grant or withhold based on compliance with reasonable conditions; and
- WHEREAS,** the City Council’s regulation of development is based on the government’s legitimate interests in promoting orderly development, ensuring that subdivisions are constructed safely, and protecting the future owners from inadequate police and fire protection, inadequate drainage, and unsanitary conditions; and
- WHEREAS,** the City Council has determined that reasonable rules and regulations governing subdivision plats are necessary to maintain water quality, ensure traffic safety, protect the region’s livability, preserve property values, and reinforce Dripping Springs’ status as the Gateway to the Hill Country; and
- WHEREAS,** the City Council has determined that removing a specific definition of restrictions and covenants separate from state law will provide a more efficient process for applicants and flexibility for staff in reviewing replat requests for vacation requirements; and
- WHEREAS,** the City Council has determined that removing reference to deed restrictions in substantive replat review would provide clarification on city authority related to deed restrictions; and
- WHEREAS,** pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power

granted by law to the City; and

**WHEREAS**, pursuant to Chapter 212 of the Texas Local Government Code, the City has the authority to adopt rules governing plats and subdivisions of land; and

**WHEREAS**, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Dripping Springs to adopt an ordinance regulating the subdivision and platting of land.

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dripping Springs:**

### **1. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

### **2. ENACTMENT**

Chapter 28, Exhibit A Subdivision Ordinance of the City of Dripping Springs Code of Ordinances is hereby amended so to read in accordance with Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

### **3. REPEALER**

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

### **4. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

### **5. CODIFICATION**

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

### **6. EFFECTIVE DATE**

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

## **7. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED & APPROVED this, the 7th day of September 2021, by a vote of \_\_ (ayes) to \_\_ (nays) to \_\_ (abstentions) of the City Council of Dripping Springs, Texas.**

### **CITY OF DRIPPING SPRINGS:**

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Bill Foulds, Jr., Mayor

### **ATTEST:**

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Andrea Cunningham. City Secretary

## **Chapter 28 - SUBDIVISIONS AND SITE DEVELOPMENT**

### **EXHIBIT A. - SUBDIVISION ORDINANCE**

#### **SECTION 7. - REPLATTING**

##### **7.2. Replatting without vacating.**

A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

**7.2.1.** Is signed and acknowledged by only the owners of the property being replatted.

**7.2.2.** Is approved, after a public hearing on the matter at which parties of interest and citizens have an opportunity to be heard, by the P&Z.

**7.2.3.** Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat. ~~For purposes of this section, a plat note shall be construed as a covenant or restriction.~~

**7.2.4.** When evaluating the size of lots requested by an applicant seeking to replat all or a portion of a single-family residential subdivision without vacation, the city's determination shall include consideration of:

(a) The minimum lot area required for the particular zoning district;

~~(b) Minimum lot sizes established by deed restrictions (aka, "restrictive covenants") in effect for the subdivision;~~

(b) The average size of existing platted lots or units in the subdivision; and

(c) The size of the smallest developable (i.e., "buildable") lot or unit in the subdivision.