

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBPART (1) OF SECTION (D), "PLAT REQUIRED," OF SECTION 10.03.004, "APPLICABILITY," TO COMPLY WITH REVISED LANGUAGE CONTAINED IN HOUSE BILL NO. 3699 RELATIVE TO SECTION 212.004(A) OF THE TEXAS LOCAL GOVERNMENT CODE; AMENDING SUBSECTION (B) OF SECTION 10.03.034, "DIRECTOR OF DEVELOPMENT SERVICES," TO AUTHORIZE THE DIRECTOR OF DEVELOPMENT SERVICES TO APPROVE OR DENY PLATS IN CERTAIN CIRCUMSTANCES; AMENDING SECTION 10.03.063, "30-DAY TIME FRAME FOR PLAT APPROVALS," TO REFLECT THAT THE RIGHT TO 30-DAY ACTION FOR PLAT APPLICATIONS BEGINS ON THE FILING DATE AND ONE OR MORE 30-DAY EXTENSIONS SHALL BE AUTHORIZED; ADDING A DEFINITION OF "FILING DATE," AMENDING THE DEFINITIONS OF "APPROVAL" AND "PLAT," AND REPEALING THE DEFINITIONS OF "ADMINISTRATIVELY COMPLETE" AND "OFFICIAL SUBMISSION DATE," CONTAINED IN SECTION 10.03.192, "WORDS AND TERMS DEFINED"; PROVIDING THAT THE PHRASE "OFFICIAL SUBMISSION DATE" SHALL BE REPLACED WITH THE PHRASE "FILING DATE" IN SECTION 10.03.084(F)(2) AND SECTION 10.03.085(H)(2), ALL OF THE FOREGOING SECTIONS CONTAINED IN ARTICLE 10.03, "SUBDIVISION ORDINANCE," OF CHAPTER 10, "SUBDIVISION REGULATION," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING CLAUSES; PROVIDING FOR PENALTIES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the Town of Prosper, Texas ("Town"), is a home-rule municipality under the laws of the State of Texas and is duly incorporated; and

**WHEREAS**, the Town possesses the full power of self-government, as authorized by the Texas Constitution and the Town's duly adopted Charter; and

**WHEREAS**, the 88th Legislature recently passed House Bill No. 3699, which Bill was signed by the Governor, providing for amendments to Chapter 212, "Municipal Regulation of Subdivisions and Property Development," of the Texas Local Government Code; and

**WHEREAS**, the following amendments to the Town's Subdivision Ordinance are in full compliance with the requirements of House Bill No. 3699, and the Town Council of the Town has determined that the adoption of these new provisions is in the best interests of the citizens of the Town and will promote the public health, safety and general welfare; and

**WHEREAS**, the Town Council, on behalf of Prosper and its citizens, has further determined that the following amendments will promote the orderly, safe and efficient growth of the Town and the Town's extraterritorial jurisdiction.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

## **SECTION 1**

All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of this Ordinance as if fully set forth herein.

## **SECTION 2**

From and after the effective date of this Ordinance, Subpart (1) of Section (d), "Plat required," of Section 10.03.004, "Applicability," of Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

### **"10.03.004    Applicability**

\* \* \*

- D.    Plat Required Subdivision Plats Required under LGC 212 Subchapter A.
  - 1.    In accordance with LGC Section 212.004, the owner of a tract of land located within the Town's corporate limits or in the Extraterritorial Jurisdiction (ETJ) who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use must have a Plat of the subdivision prepared."

## **SECTION 3**

From and after the effective date of this Ordinance, Section 10.03.034, "Director of Development Services," of Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended by adding a subsection (b) thereto to read as follows:

### **"Sec. 10.03.034    Director of Development Services.**

\* \* \*

(b)    In the event there is not sufficient time for the Planning and Zoning Commission to approve or deny any plat based upon the filing date of such plat, the Director of Development Services may approve or deny such plat, pursuant to Section 212.0065 of the Texas Local Government Code, as amended. The disapproval of any plat by the Director of Development Services may be appealed to the Planning and Zoning Commission."

## **SECTION 4**

From and after the effective date of this Ordinance, Section 10.03.063, "30-Day Time Frame for Plat Approvals," of Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended by adding a subsection (b) thereto to read as follows:

### **"Sec. 10.03.063    30-Day Time Frame for Plat Approvals.**

(a) *Right to 30-day action for plat applications begins on the filing date.* The statutory 30-day time frame for plat approvals, established by the Texas Local Government Code, ch. 212, shall commence on the filing date.

(b) *Extension of right to 30-day action.* Pursuant to Texas Local Government Code, § 212.009(b-2), as amended, upon application in writing by the applicant, the Commission or Town Council may approve one or more extensions of right to 30-day action, each such extension not to exceed 30 additional days.”

## **SECTION 5**

From and after the effective date of this Ordinance, a definition of “Filing Date” shall be added to Section 10.03.192, “Words and Terms Defined,” of Article 10.03, “Subdivision Ordinance,” of Chapter 10, “Subdivision Regulation,” of the Code of Ordinances of the Town of Prosper, Texas, as follows:

*“Filing Date.* The filing date of a preliminary plat, replat or final plat shall be considered the date an applicant submits said plat, along with a completed application and applicable fees, and other requirements prescribed by or under Texas Local Government Code § 212.004, as amended.”

The definitions of “Approval” and “Plat,” both of which are contained in the same section, are hereby amended to read as follows:

*“Approval.*

- a. Approval constitutes a determination by the official, board, commission or Town Council responsible for such determination that the application is in compliance with the minimum provisions of this subdivision ordinance.
- b. Such approval does not constitute approval of the engineering or surveying contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.
- c. For purposes of plat approval, approval shall also include approval with conditions, pursuant to Section 212.009 of the Texas Local Government Code, as amended.

\* \* \*

*Plat.* A map or chart of the subdivision, lot or tract of land showing all essential dimensions and other information required to comply with this subdivision ordinance as it exists or may be amended.”

The definitions of “*Administratively Complete*” and “*Official Submission Date*,” contained in the same Section are hereby repealed.

## **SECTION 6**

From and after the effective date of this Ordinance, the phrase "Official Submission Date" shall be replaced with the phrase "Filing Date" in Section 10.03.084(f)(2) and Section 10.03.085(h)(2), of Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas.

## **SECTION 7**

The Director of Development Services for the Town is hereby authorized to make all appropriate changes to the Town's Development Manual and other reference resources, in accordance with this Ordinance.

## **SECTION 8**

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. The Town Council 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, sentences, clauses and phrases be declared unconstitutional or invalid.

## **SECTION 9**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

## **SECTION 10**

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of Five Hundred Dollars (\$500.00), and each and every day such violation shall continue shall constitute a separate offense.

## **SECTION 11**

This Ordinance shall become effective from and after its passage and publication.

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 12TH DAY OF SEPTEMBER, 2023.**

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**David F. Bristol, Mayor**

**ATTEST:**

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**Michelle Lewis Sirianni, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

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**Terrence S. Welch, Town Attorney**