

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE OF THE CITY OF FORT WORTH, CODIFIED AS CHAPTER 31 "SUBDIVISION ORDINANCE" OF THE CODE OF THE CITY OF FORT WORTH, TO AMEND ARTICLE I, "PLAN COMMISSION", AMEND ARTICLE II, "DEVELOPMENT REVIEW COMMITTEE", AMEND ARTICLE III, "PLATTING", AND AMEND ARTICLE IV, "SUBMISSION AND REVIEW PROCESS", TO PROVIDE FOR THE DELEGATION BY THE PLAN COMMISSION TO THE DIRECTOR OF THE DEVELOPMENT SERVICES DEPARTMENT THE AUTHORITY TO APPROVE, DISAPPROVE OR CONDITIONALLY APPROVE CONSTRUCTION PLANS, AND ACT ON WAIVERS AND CONTINUANCES FOR CONSTRUCTION PLANS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND NAMING AN EFFECTIVE DATE.

WHEREAS, on September 12, 2006, the City Council of Fort Worth adopted Ordinance Number 17154 which combined the Subdivision Regulations of Chapter 31 of the City Code and the Plan Commission Rules and Regulations into one revised subdivision ordinance adopted by the City Council as Appendix C, "Subdivision Ordinance" to the City Code; and

WHEREAS, on October 30, 2007, the City Council adopted Ordinance Number 17851 which repealed the contents of Chapter 31 "Subdivision Regulations", replaced with the contents of Appendix C, "Subdivision Ordinance" and repealed Appendix C; and

WHEREAS, the 86th Legislature of the State of Texas passed House Bill 3167 which was signed by Governor Abbott on June 14, 2019, with an effective date of September 1, 2019 (the "Act"); and

WHEREAS, the Act amended Chapter 212, "Municipal Regulation of Subdivisions and Property Development," of the Texas Local Government Code (TLGC) to require, in part, that the municipal authority responsible for approving plats shall act on a construction plan within the timeframes set forth in Section 212.009 and Section 212.0095 or the construction plan is considered approved by operation of law; and

WHEREAS, the City Council adopted Ordinance No. 23932-11-2019 amending the Subdivision Ordinance to conform with the Act; and

WHEREAS, it is advisable to amend the Subdivision Ordinance to authorize the delegation of the approval, conditional approval, and disapproval of construction plans and the delegation of the authority to act on waivers and continuances for construction plans from the City Plan Commission to the Director of the Development Services Department, or the Director's designee; and

WHEREAS, the City Plan Commission has reviewed the proposed amendments and recommends amending the Subdivision Ordinance as proposed.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS

SECTION 1.

Chapter 31, “Subdivision Ordinance” of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby further amended by amending Article I, “Plan Commission” to amend subsection 31-1, to read as follows:

Sec. 31-1 RESPONSIBILITY.

The city plan commission, referred to as “commission,” shall exercise all of the powers of approval, disapproval and vacation of plats and plans, as provided by state statutes and the City Charter and ordinances. The commission may delegate to the Director or the Director’s designee, the authority to approve, disapprove, and conditionally approve constructions plans, and the authority to grant waivers of the provisions of this chapter and continuances for construction plans. The Director may refer any matter delegated to the Director to the commission for a decision.

SECTION 2.

Chapter 31, “Subdivision Ordinance” of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby further amended by amending Article I, “Plan Commission” to amend subsection 31-5, to read as follows:

Sec. 31-5 DECISIONS.

(a) Continuance. An applicant may request a continuance in accordance with Texas Local Government Code § 212.009(b-2) if received in writing prior to publication of public notice, generally ten days prior to a public hearing. Any request received after public notice is served shall be at the discretion of the commission. An applicant may request a continuance on construction plans delegated to the Director or the Director’s designee in accordance with Texas Local Government Code § 212.009 (b-2) if received in writing by the Director or the Director’s designee.

(b) Approval. The commission or Director shall approve any plan or plat, as applicable, that conforms to this chapter, the comprehensive plan as it applies within the city limits (except where it conflicts with existing zoning) and its appendices; master thoroughfare plan; parks and recreation policies, applicable infrastructure policies and

manuals; Meacham, Alliance and Spinks Airport Controls; other city codes, ordinances, policies, rules or regulations; and applicable state and federal laws.

(c) Conditional approval.

(1) The commission or Director, as applicable, may conditionally approve a plan or plat where there is a master thoroughfare plan amendment, a rezoning or board of adjustment application is pending or when a plat or plan does not fully conform with this Chapter including all plans, design standards and policy manuals incorporated by reference into the Subdivision Ordinance and other applicable regulations in the City Code and state law. The commission or Director shall not deny or place conditions of approval based upon public protest, private deed covenants and agreements, or allegations that the plan or plat is not in keeping with the character of the neighborhood.

(2) Conditional approval shall constitute disapproval until all the conditions are met. If the plat or plan is approved with conditions, the Commission or Director, as applicable, shall provide a written statement to the applicant in accordance with Texas Local Government Code § 212.0091.

(3) The applicant may submit a response to the conditional approval to the Commission or Director, as applicable, in accordance with Texas Local Government Code §212.0093. If submitted in accordance with filing calendar, the Executive Secretary shall file said response with the Commission or Director, as applicable, for consideration within 15 days. The Commission shall approve or disapprove a response submitted in accordance with Texas Local Government Code §212.0093. If the response is disapproved, the Commission or Director, as applicable, shall provide a written statement to the applicant in accordance with Texas Local Government Code §212.0091.

(d) Approval with waivers.

(1) The applicant may request a waiver of the provisions of this chapter by filing a written request with the executive secretary at the time of plat or plan application submittal.

(2) a. The commission may authorize a waiver when reasonable difficulty will result from strict compliance. The commission shall consider the general purpose and intent of this chapter, the applicable infrastructure policies and state law requirements, the nature of the proposed use of the land involved relative to the need for changes in infrastructure and municipal services, existing zoning and uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of the variance upon traffic conditions.

b. The Director may authorize a waiver to construction plans when reasonable difficulty will result from strict compliance. The Director shall consider the general purpose and intent of this chapter, the applicable infrastructure policies and state law requirements, the nature of the proposed use of the land involved relative to the need for changes in infrastructure and municipal services, existing zoning and uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of the variance upon traffic conditions.

(3) a. No waiver shall be granted unless the commission or Director, as applicable, finds:

1. That the effect of granting the waiver will be neither detrimental to the public health, safety or welfare nor injurious to other property; and

2. That the effect of granting the wavier will not prevent the use or orderly development of other tracts of land.

b. The findings, together with the specific facts upon which these findings are based, shall be entered as part of the official minutes of the commission meeting or the decision by the Director.

(e) Denial. The commission or Director, as applicable, may deny any plan or plat or that does not conform to this chapter, the comprehensive plan as it applies within the city limits (except where it conflicts with existing zoning) and its appendices, master thoroughfare plan, parks and recreation policies, applicable infrastructure policies and manuals, Meacham, Alliance and Spinks Airport controls, other city codes, ordinances, policies, rules or regulations; and other applicable state and federal laws. If the plat or plan is denied, the Commission or Director, as applicable, shall provide a written statement to the applicant in accordance with Texas Local Government Code § 212.0091. The applicant may submit a response to the denial to the Commission or Director, as applicable, in accordance with Texas Local Government Code §212.0093. If submitted in accordance with filing calendar, the Executive Secretary shall file said response with the Commission or Director, as applicable, for consideration within 15 days. The Commission or Director, as applicable, shall approve or disapprove a response submitted in accordance with Texas Local Government Code §212.0093. If the response is disapproved, the Commission or Director, as applicable, shall provide a written statement to the applicant in accordance with Texas Local Government Code §212.0091.

(f) Recommendations to city council.

(1) The commission shall make a recommendation for street closures/vacations to city council for final consideration and action.

(2) The commission will make a recommendation to city council for final consideration and action for comprehensive plans, annexations and other tasks as defined by city council.

(g) Changes following commission or Director approval.

(1) a. Plans or plats previously approved at the commission's public hearing may not be changed or altered without a re-hearing, except to bring the plan/plat in conformance with the conditions and requirements stipulated by the commission.

b. Changes in land use, zoning, street classifications, the configuration of street patterns, connections to perimeter streets, an increase in development intensity or extensions to the perimeter boundary of the subdivision to un-subdivided properties require a public hearing. Changes to street classifications, connections to perimeter streets or extensions to the perimeter boundary of the subdivision to un-subdivided properties shall also require the written consent of the adjacent property owner.

(2) The executive secretary may administratively review and approve the following without plan commission approval:

a. Minor alterations to internal streets and/or circulation system and alignments; and

b. A net increase in the overall dwelling unit yield of the plan. The net increase may not exceed 5% of the total residential lots rounded to the nearest whole number.

(3) The Director may approve alterations to previously approved construction plans after the filing and rehearing of the altered construction plans in accordance with the requirements for filing a new construction plan for consideration.

(h) Other matters of business (OMB).

(1) Requests that are minor in nature may be placed on the commission agenda for review and consideration by the commission under the heading “other matters of business.” All such requests shall be posted on the commission’s agenda prior to public hearing in the manner prescribed by state law.

(2) Requests eligible as “other matters of business” include the following:

- a. Change the subdivision name of a preliminary, short form or final plat;
- b. Increase in lot yield of an approved preliminary plat that does not exceed 5% of the total residential lots, rounded to the nearest whole number. In granting a request, the commission shall consider that the increase is the result of a final adjustment in the plan design; adjustment in the size or configuration of public park, other open space or community facility parcels; or the elimination of oil/gas drill sites which would reasonably incur an increase in lot yield;
- c. A one-year extension of the expiration date of an approved concept plan, preliminary plat, final or short form plat;
- d. Vacation of a final recorded plat, where an agreed petition signed by all affected property owners has been submitted; and
- e. Revisions to the subdivision ordinance or commission’s rules of procedures.

SECTION 3.

Chapter 31, “Subdivision Ordinance” of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby further amended by amending Article IV, “Submission and Review Process”; Section 31-61 “Pre-Submission; Pre-Development Conference,” subsection (d), to read as follows:

- (d) A post submittal conference may be held between the applicant, his or her consultant, and the Infrastructure Plan Review Center staff after a construction plan ~~Plan Commission~~ has been disapproved or conditionally approved ~~a construction plan~~. If the applicant chooses to have a post submittal conference, the post submittal conference must be held before the applicant files a response to the reasons the construction plan was disapproved or conditionally approved. An applicant must agree in writing that the conference does not constitute the filing of an application or a response. The purpose of the meeting is to provide the applicant with assistance in re-designing construction plans to meet the City’s requirements. This post submittal conference does not constitute a filing or written response under Chapter 212 of the Texas Local Government Code.

SECTION 4.

Chapter 31, “Subdivision Ordinance” of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby further amended by amending Article IV, “Submission and Review Process”; Section 31-62 “Submission Process,” subsection (b), to read as follows:

(b) *Filing date.* The filing date for applications submitted for plan commission or Director action shall be established by the executive secretary. The filing deadline shall be the official filing date for all applications. Any application delivered to the City prior to the filing date shall be deemed submitted on the official filing date.

SECTION 5.

Chapter 31, “Subdivision Ordinance” of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby further amended by amending Article IV, “Submission and Review Process”; Section 31-63, “Review, Approval and Expiration,” subsection (d) to read as follows:

(d) ***Construction Plans.***

(1) *Applications.* All construction plans shall include the following at the time of filing:

- a. IPRC application form and payment of the application fee;
- b. Construction plans that are signed and sealed by the engineer of record;
- c. Drainage study approved by the City or a copy of the City’s determination that the drainage study is not required;
- d. Traffic impact assessment study approved by the City or a copy of the City’s determination that a traffic impact assessment study is not required;
- e. Water and sanitary sewer studies approved by the City, or a copy of the City’s determination that a water or sanitary study is not required;
- f. Draft horizontal control plan;
- g. Approved alignment walks for water, sanitary sewer and stormwater infrastructure or a copy of the City’s determination that an alignment walk is not required;
- g. Geotechnical report;
- h. Proof that the property is properly zoned for the project or a copy of the application for a zoning change;
- i. Approved Master Thoroughfare Plan amendments or a copy of the application for approval;
- j. Approved street vacations or a copy of the application for approval;
- k. Approvals of outside governmental entities or a copy of all applications for approval;
- l. Construction plan waivers that have been granted or a copy of the application for each waiver; and
- m. A copy of the currently public City construction specifications applicable to the construction plans

(2) *Review.* The Infrastructure Plan Review Center shall review the construction plan to determine compliance with: this chapter; other city codes, ordinances, policies, rules or regulations; and county, state, and federal laws.

(3) *Approval.*

a. The ~~commission~~ or Director shall review construction plans requesting a waiver ~~that requires the approval of the plan commission~~. The decision of the ~~commission~~ or Director is final.

b. The ~~commission~~ or Director shall determine that construction plans meet the following requirements prior to approval:

1. City's subdivision regulations;
2. Conformance with any approved preliminary plat or final plat;
3. Conformance with City codes, ordinances, policies, rules and regulations;
4. Conformance with county, state, and federal laws.
5. Approval of proper zoning, street vacations, and Master Thoroughfare Plan amendments; and
6. Approval of other governmental entities, when required, have been obtained.

(4) *Conditional approval.* Construction Plans conditionally approved shall follow the process provided in section 31-5(c).

(5) *Changes or alterations to approved construction plans.* No previously approved construction plan may be changed or altered, except to bring the construction plan in conformance with the conditions and requirements stipulated as part of the approval ~~by the commission~~. Minor field changes shall be permitted at the discretion of the Infrastructure Plan Review Center and the Construction Inspector as long as the field changes do not conflict with the City codes, ordinances, policies, rules, and regulations.

(6) *Expiration.*

a. A construction plan shall expire two years from the date the construction plan was approved ~~by the city plan commission~~.

b. If a new construction plan is submitted, a new application and application fee will be required and a new maximum two-year period shall begin upon the ~~commission's~~ approval of the newly submitted construction plan.

SECTION 6.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), 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 conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 7.

It is hereby declared to be the intention of the City Council that the sections,

paragraphs, sentences, clauses and phrases of this ordinance are 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 and 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 8.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Code of the City of Fort Worth 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 9.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 10.

This ordinance shall take effect after adoption.

APPROVED AS TO FORM AND LEGALITY:

Senior Assistant City Attorney

Mary Kayser
City Secretary

ADOPTED: _____

EFFECTIVE: _____