

**ORDINANCE 22-10**

**AN ORDINANCE OF THE CITY OF WOODWAY, TEXAS; AMENDING CHAPTER 17, SUBDIVISIONS; OF THE CODE OF ORDINANCES OF THE CITY OF WOODWAY, TEXAS, SECTION 17-7, PRELIMINARY PLATS – SUBMISSION, SECTION 17-10, INFORMATION REQUIRED ON ALL FINAL PLATS AND SECTION 17-24, ESCARPMENT ZONE AND GEOLOGICALLY SENSITIVE AREA REGULATIONS, PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE, AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODWAY, TEXAS:**

**SECTION I**

That Chapter 17, Subdivisions of the Code of Ordinances of the City of Woodway, Texas, Section 17-7, Preliminary Plats is hereby amended as follows:

A preliminary plat of each proposed division, subdivision, improvement, or development (a) must be prepared by a registered surveyor, at a scale not smaller than four hundred (400) feet to the inch, and (b) shall first be submitted to the commission for approval before the submission of the final plat. The preliminary plat shall cover the entire tract of land to be developed and all adjoining and contiguous land under the control, legal or equitable, of the owner of the land covered by the preliminary plat. Four (4) 18" x 24" paper copies, one (1) 11" x 17" paper copy, and one (1) copy in an electronic format acceptable to the City of the preliminary plat shall be delivered to the city engineer no later than the twenty-fifth day prior to the commission meeting at which a plat is to be considered. Such plat shall contain the following information:

- (1) The proposed subdivision name (which must not duplicate in any manner an existing subdivision name); the names and addresses of the owner or owners of record; the names and addresses of any persons, firms, corporations or other entities, including any and all lienholders, having an interest in said subdivision; and the names and addresses of the designer or designers of the plat, who shall be a registered engineer or registered surveyor. The city may require that the subdivision name be changed.
- (2) Date, approximate north point, and scale.
- (3) The preliminary plat shall indicate the location of all existing sanitary sewers, water mains, storm sewers, gas mains, electric and telephone lines, culverts, or other underground and overhead structures or utilities within the proposed subdivision and immediately adjacent thereto, with pipe sizes, grades and locations indicated, the location of existing and platted property lines, streets, watercourses, railroads and any public easements on the land within the subdivision, their location on the immediately adjoining land, and the location and size of all existing and proposed subdivision improvements within the proposed subdivision and any improvements to be made outside the subdivision for the purpose of serving the subdivision. Any

preliminary plat and any final plat based thereon approved prior to the date of adoption of this chapter shall be deemed to have been in compliance with all requirements of this paragraph (3) as it existed on the day prior to the date of adoption of this chapter.

- (4) The names, locations, width and other dimensions of proposed streets, alleys, easements, parks, reservations, blocks, lot lines, and building lines. The names of streets shall conform whenever possible to existing street names, and lots and blocks shall be numbered in a systematic arrangement.
- (5) Proposed land use for each lot, tract or parcel of land covered by the preliminary plat.
- (6) For all tracts larger than three (3) acres, topographical information indicating five-foot contour lines based on U.S.G.S. datum.
- (7) The location, size and elevation of all existing drainage structures on the land being subdivided and on adjoining tracts.
- (8) Location of city limits line, the outer border of the city's extraterritorial jurisdiction, and boundaries, if they traverse the subdivision or form part of the boundary of the subdivision, or are contiguous to such boundary.
- (9) Vicinity sketch or map at a scale of not more than two thousand (2,000) feet to an inch which shall show the proposed subdivision, and adjacent land uses, and all adjacent land leased, owned, controlled or under contract or option of any type in favor of the subdivider.
- (10) A preliminary drainage study as required by the design and construction standards shall be attached to the preliminary plat.
- (11) An escarpment plan for development in the geologically sensitive area as may be required by this chapter shall be attached to the preliminary plat.
- (12) A statement addressed to the city by the subdivider's registered engineer of the maximum amount of water use for each lot and each use determined in accordance with Texas Commission on Environmental Quality, or its successor, requirements.
- (13) The following notices shall be placed on the face of each preliminary plat:
  - a. Preliminary plat for inspection purposes only. Not for recordation. Not for use in construction of improvements.
  - b. NOTE: Approval of this preliminary plat does not approve or disapprove any land use now or in the future or guarantee availability or adequacy of water supply or sewage transportation, treatment or disposal.
  - c. Each of the following certificates shall be placed on the plat in a manner that will allow the filling in of the certificate by the proper party:

## SECTION II

That Chapter 17, Subdivisions of the Code of Ordinances of the City of Woodway, Texas, Section 17-10(h), Information Required on all Final Plats is hereby amended as follows:

- (h) If the subdivision is in the geologically sensitive area it shall be denoted in one quarter (1/4) inch high letters on the final plat.

### SECTION III

That Chapter 17, Subdivisions of the Code of Ordinances of the City of Woodway, Texas, Section 17-24—17-24.7, Escarpment Zone and Geologically Sensitive Area Regulations, is hereby amended, in its entirety, to read as follows:

#### **Section 17-24. Purpose.**

The purpose of the following escarpment zone and geologically sensitive area regulation (as shown in the approved City of Woodway Slope Delineation Map) shall be to promote the following objectives:

- (1) To preserve the stability and value of public and private property.
- (2) To minimize costs of public improvements to correct and reduce hazards and pollution.
- (3) To minimize the effects of grading and ensure that the natural character of the escarpment is retained.
- (4) To provide safety against unstable slopes subject to erosion and deterioration; and
- (5) To ensure that development is planned to fit the topography, soils, geology, hydrology, and other conditions existing on the proposed site.

#### **Section 17-24.1. Definitions.**

Unless the context clearly indicates otherwise:

*Crest* means that line above the escarpment line where slope becomes less than 6:1.

*Developer* means a person, partnership, corporation, or other entity submitting a plan for development in the escarpment zone or geologically sensitive areas.

*Development* means any activity, such as grading, excavation, filling, dumping, removal of vegetation, or erection of structures.

*Escarpment* means a long continuous cliff or relatively steep slope facing in one (1) general direction.

*Escarpment line* means that line formed by the intersection of the plane of the stratigraphic contact between the Austin Chalk and the South Bosque Shale formations and the surface of the land.

*Escarpment zone* means the corridor of real property between the following described vertical planes:

- (1) On the crest side of the escarpment line, forty-five (45) feet beyond the crest.
- (2) On the toe side of the escarpment line, forty-five (45) feet beyond the toe.

*Factor of safety* means a combination of factors which, when considered together, indicate whether the slope is stable at a slip surface location. The factor of safety (FS) must be determined using geotechnical computer software designed to model slopes using circular or wedge failure mechanisms as applicable for the conditions. Residual shear strength parameters (residual cohesion and residual friction angle) must be used.

*Geologically sensitive areas* mean:

- (1) Areas between the escarpment line and Lake Waco; or
- (2) Any area in the City with slopes steeper than 6:1.

*Grading* means any excavation or filling or any combination thereof.

*Slope 6:1* means a slope with an angle described by six (6) feet horizontal to one (1) foot vertical.

*Toe* means that line below the escarpment line where the slope becomes less than 6:1.

#### **Section 17-24.2. General requirements.**

When any person engages in division, subdivision, improvement or development of land, submits development plans for approval, applies for approval of a planned unit development, or submits a subdivision plan for approval on property located wholly or partially in the escarpment zone or geologically sensitive area, a development report meeting the requirements of this section must be submitted and approved before the requested action may be taken, except as provided in section 17-24.3. Any preliminary fieldwork investigations necessary for preparation of an Escarpment Development Report requires submittal for and approval of a Site Testing Permit by City Council.

- (1) **Site Testing Permit.** A Site Testing Permit is required to be approved by City Council before investigative work can be started. From the initial date of City Council approval, the permit will be valid for five (5) years. The minimum information required for a permit includes:
  - a. Property contact information: Owner, developer, and contractor information to be provided as necessary.
  - b. Description of project location: Street address, subdivision name including lot and block, or survey field notes.
  - c. Map of property showing areas to be impacted by work.
  - d. Description of work to be performed, including estimates of areas of land to be cleared. Any clearing for contractor access as well as emergency access to work areas should be included in this description.
    1. Working paths shall be no greater than 25 feet in width with 100-foot radius turnaround areas allowed every 1000 feet.
  - e. Any applicable state or federal permits will need to be obtained prior to Site Testing Permit being given by the City.
  - f. Deviations from the approved areas of access/clearing due to field condition changes require an amendment to the approved Site Testing Permit.
- (2) **Escarpment Development Report.** Every subdivider or developer submitting an Escarpment Development Report pursuant to these regulations shall submit the following:
  - a. Developer's name and address and a statement of interest in the proposed development.
  - b. The name and address of any person holding or claiming an ownership interest in or lien against the property if different from (a).
  - c. The name and address of the person preparing the items submitted.
  - d. A general vicinity map of the proposed site on a scale of one (1) inch equals two thousand (2,000) feet.
  - e. A brief description of the proposed development.

f. A technical report that shall consist of the following:

1. *Soils engineering report.*

(a) *Site geology.* The engineering geology sections shall include an in-depth description of the geology of the site, conclusions, and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of the site.

(b) *Slope stability analysis.* For new structures and streets, laboratory tests as described herein shall be taken of representative locations within the site to adequately describe the existing geotechnical conditions. Slope stability calculations shall be performed for each new structure to be erected. No structure shall be erected where the slope stability factor of safety is less than one point five (1.5). All soil tests and calculations for new development shall be performed and sealed by a geotechnical engineer. The structural foundations for all new developments shall be designed and sealed by a registered professional engineer. The information hereinafter described shall be filed with the City as part of the report:

(i) Boring locations.

(ii) Drillers logs of borings.

(iii) Table of engineering tests including, but not limited to, shear strength tests, Atterberg limits and swell tests.

(iv) Calculations of slope stability analysis indicating shape of slip surface(s), location of slip surface(s), and corresponding factor(s) of safety.

(c) *Design recommendations.* The soil engineering report shall include data regarding the nature, distribution, and strength of the existing soils; conclusions and recommendations for grading procedures; design criteria for corrective measures when necessary, and opinions and recommendations covering the adequacy of the site.

2. *Grading plan.*

(a) A map outlining the development site and showing the contours of the property at two-foot intervals with details of the terrain and area drainage, on a scale of one (1) inch equals one hundred (100) feet.

(b) A cross section of the property on a scale of one (1) inch equals fifty (50) feet.

(c) A grading plan shall be submitted for any grading which will result in permanent cut or fill on slopes greater than 6:1.

(d) Grading shall be planned to have the least disturbances on the area's natural topography, watercourses, vegetation, and wildlife.

(e) Topsoil shall be stockpiled and applied on areas where vegetation will be grown after the grading is completed. Methods to ensure maintenance of these areas until vegetation is established shall be detailed.

(f) The grading plan shall incorporate recommendations from the soils engineering report and contain all necessary information concerning plans for surface and subsurface drainage devices. A drainage area map with drainage calculations shall be prepared by a registered professional engineer.

3. *Soil erosion control plan.* A soil erosion control plan shall be submitted to include the following information:

(a) Type of soil cover (as mapped and published by the Soil Conservation Service).

(b) Erodibility of mapped soils.

(c) Existing and proposed development.

(d) A timing schedule indicating anticipated starting and completion dates for the development sequence and time of exposure of each area prior to completion of control measures.

(e) The plans shall specify all measures to be taken to prevent or control erosion and sedimentation of existing soils during and after construction.

(f) A detailed site plan which shows existing vegetative patterns and proposed vegetation removal within the escarpment zone.

(g) The soil erosion control plan shall conform to the following standards:

(i) Development shall be fitted to the topography and soils.

(ii) Natural vegetation shall be retained and protected wherever feasible.

(iii) As small an area as possible shall be exposed at any one (1) time.

(iv) When land is exposed during development, the exposure shall be kept to the shortest practical period.

(v) Sediment basins or other approved installations shall be installed and maintained to remove sediment from runoff waters from land undergoing development.

(vi) Discharge of stormwater over the escarpment zone shall be minimized with no concentrations greater than that in the existing state. Collection and routing should be implemented. No ponding of water in the escarpment zone will be allowed.

(vii) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.

(viii) Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.

(h) A detailed site plan shall be submitted which shows existing vegetation patterns and proposed vegetation removal. Any development shall conform but is not limited to the following performance standards for preservation of vegetation:

(i) Natural vegetation shall be retained and preserved whenever feasible.

(ii) Shrub borders shall be maintained around woodlands.

(iii) Landscape planting shall be indigenous plant species, whenever feasible.

(i) The soil erosion control plan shall be prepared by a registered professional engineer complying with local soil conservation standards.

4. *Estimate to restore.*

(a) The developer shall submit a cost estimate to restore the site to a stable condition. Such estimate must be prepared by a registered professional engineer. As used herein, the term "stable condition" shall mean the approximate slope stability factor of safety which existed prior to any work or development.

g. All required information and reports shall be filed with the City. Outside consultants may be employed to review all or portions of the information and reports where such is deemed necessary by the City Manager. Where a consultant is utilized, the City Manager shall inform the developer of the consultant's name and address.

h. The Planning and Zoning Commission shall review all information, plans, and reports submitted by the developer together with City Staff and City Engineer evaluations. If the Planning and Zoning Commission determines that the submitted Escarpment Development Report (based on the existing condition) is following provisions of this chapter, the Planning

and Zoning Commission shall make a recommendation for consideration to the City Council to approve or disapprove the Escarpment Development Report. After City Council reviews the report and recommendations of the Planning and Zoning Commission, City Council may approve the plan as originally presented, approve the plan with modifications, or may reject the plan in its entirety. If the application and plans are approved with modifications, City Council shall cause the applicant to be notified of such modifications, and only upon receipt of this written consent to such modifications, shall the plans be deemed approved.

- i. Permit fees for escarpment development permits shall be established by resolution as part of the City of Woodway Master Fee Schedule.

### **Section 17-24.3. Exceptions.**

- (1) The provisions of section 17-24 shall not apply to any lot for which a final subdivision plat was approved by the Planning and Zoning Commission of the City prior to June 24, 1991, provided that at such time as application for a building permit is made, the plans for the improvements to be constructed must bear the seal of a registered professional engineer who shall certify, on the plans, that the design is adequate for use on the site.
- (2) The provisions of section 17-24 shall not apply to any nonresidential agricultural, industrial, or commercial land use practice, in effect or in place as of June 10, 1991, provided that any such exempt land use does not consist of construction, repair, use, or occupancy of any building or structure.
- (3) The provisions of section 17-24 shall not apply to the construction of a public improvement authorized by the City.
- (4) The provisions of section 17-24 shall not apply to the modification of a structure existing on June 24, 1991, the effective date of this section, which modification does not change the use of the structure or increase the size of the structure by more than fifty (50) percent of the square footage of the structure as it existed on the date of passage of this section.

### **Section 17-24.4. Approved report.**

(1) Upon approval of an Escarpment Development Report, but before issuance of any permit or approval relating to the property and before any development work may occur, the City shall require the submission of a performance bond in an amount the City determines equal to one hundred (100) percent of the estimated costs of restoring the site to its approximate original state and slope stability. In determining this amount, the cost estimate submitted by the developer may be used, but it is not binding. This bond may be in the form of a corporate surety bond, cash bond, or an irrevocable and unconditional letter of credit issued by a federally insured bank or savings and loan association with an office in McLennan County, Texas, acceptable to the City and containing terms and conditions acceptable to the City. Upon satisfactory completion of all work described in the Escarpment Development Report, the bond will be returned to the developer. This bond must be submitted and approved by the City Attorney before any work may be done at the site.

- (2) If actual development does not begin on the site within two (2) years of approval of the Escarpment Development Report, then prior to commencing any development, the developer must submit a report to the City signed by a registered professional engineer stating that there has been no change in existing conditions which requires amending the approved Escarpment Development Report.

**SECTION IV**

That if any provision of this ordinance is found by a Court of competent jurisdiction to be invalid, unconstitutional or unenforceable, or if the application of this ordinance to any person or circumstances is found to be invalid, unenforceable or unconstitutional, such invalidity, unenforceability or unconstitutionality shall not affect the other provisions or application of this ordinance which can be given effect without the invalid, unenforceable or unconstitutional provisions or application.

**SECTION V**

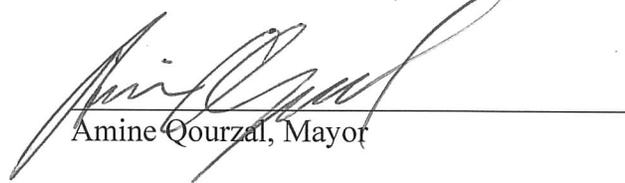
That all ordinances, codes, regulations, policies and guidelines of and in the City of Woodway, in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION VI**

That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** this 12<sup>th</sup> day of December 2022.

**CITY OF WOODWAY, TEXAS**

  
Amine Qourzal, Mayor

ATTEST:

  
Jennifer Rogers, Acting City Secretary

APPROVED:

  
David Shaw, City Attorney