

CITY OF THE COLONY, TEXAS

ORDINANCE NO. 2019 - 2366

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING APPENDIX B OF THE CODE OF ORDINANCES ENTITLED "SUBDIVISION ORDINANCE," BY AMENDING SECTION 3, ENTITLED "DEFINITIONS," BY ADDING DEFINITIONS FOR "ADMINISTRATIVELY COMPLETE" AND "FILED" OR "FILING" FOR PURPOSES OF DETERMINING WHEN A PLAT IS CONSIDERED FILED WITH THE CITY; AMENDING SECTIONS 7 AND 8, ENTITLED "PRELIMINARY PLAT" AND "FINAL PLAT," BY AMENDING THE APPROVAL PROCESS FOR PRELIMINARY PLATS AND FINAL PLATS; AMENDING APPENDIX B OF THE CODE OF ORDINANCES ENTITLED "SUBDIVISION ORDINANCE," BY ADDING NEW SECTIONS 8.1, 8.2 AND 8.3, ENTITLED "MINOR PLATS," "AMENDING PLATS," AND "CONVEYANCE PLATS" BY ADDRESSING THE PROCEDURES FOR APPROVAL OF MINOR PLATS, AMENDING PLATS, AND CONVEYANCE PLATS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in the 2019 Texas legislative session, the Texas Legislature approved H.B. 3167 (2019), which amended the platting approval process contained in chapter 212 of the Texas Local Government Code; and

WHEREAS, Section 212.0065 of the Texas Local Government Code provides that the City Council of the City of The Colony, Texas, may delegate to one or more officers or employees of the City the ability to approve amending plats described by Section 212.016 of the Texas Local Government Code, and minor plats or replats involving four (4) or fewer lots fronting on an existing street, and not requiring the creation of any new streets or the extension of municipal facilities; and

WHEREAS, the City Council of the City of The Colony, Texas, has determined that the following regulation is necessary in order to protect public health, safety, and welfare.

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

SECTION 1. That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. That Appendix B, of the Code of Ordinances of the City of The Colony, Texas, entitled “Subdivision Ordinance,” is hereby amended by amending Section 3, entitled “Definitions,” to add a definition for the word “Filed” or “Filing” which shall read as follows:

“Sec. 3. Definitions.

...

“*Administratively complete*” means an application for plat approval shall be considered administratively complete upon the occurrence of all of the following: (1) the City staff and City engineer have determined that it meets all requirements of applicable City ordinances so that it may be reviewed by the Planning and Zoning Commission, (2) the plat application and plat have been placed on an agenda for the Planning and Zoning Commission, and (3) the Planning and Zoning Commission agenda has been posted as required by law.”

....

“*Filed*” or “*Filing*” means the date the plat is considered by the City to be administratively complete and placed on an agenda for approval by the Planning and Zoning Commission. An incomplete application shall not be considered “filed” with the City as defined herein, but shall be returned to the applicant for completion and resubmittal.”

SECTION 3. That Appendix B, of the Code of Ordinances of the City of The Colony, Texas, entitled “Subdivision Ordinance,” is hereby amended by amending Section 7, entitled “Preliminary plat,” which shall read as follows:

“Sec. 7. Preliminary plat.

The developer shall submit a Preliminary plat of the subdivision to the City planning and development department. Submittal shall include a letter of transmittal requesting review and the required filing fees.

The purpose of the submittal is to allow the City planning and development department to review overall platting of the tract and street patterns within the subdivision for conformance with the requirements of the City and master plan. It also provides the City an opportunity to make preliminary estimates of City participation in street and utility costs in the subdivision. The plat shall be prepared as follows:

- (a) The preliminary plat shall be drawn to a scale of one-inch equals 400 feet or larger (one inch equals 200 feet or larger preferable).
- (b) It shall contain the name of the proposed subdivision, the name and address of the subdivider and the engineer or surveyor responsible for the design or survey, the tract designation, and other descriptions according to the abstract and survey records of Denton County, Texas.
- (c) It shall also contain a north point, scale, and date.

- (d) The boundary line of tract, accurate in scale, shall be drawn.
- (e) It shall show the names of adjacent subdivisions or names of owners of record of adjoining parcels, the location, widths, and names of all existing or platted streets, easements, or other public ways within or adjacent to the tract, existing railroad rights-of-way and other important features such as section lines, political subdivision or corporation limits and school district boundaries.
- (f) It shall show all parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purpose or conditions of limitations of such reservation.
- (g) It shall show the layout, names, and width of proposed streets, alleys, and easements.
- (h) It shall show the layout, numbers, and approximate dimensions of proposed lots and all building setback lines.
- (i) The location of proposed screening, if any, shall be clearly indicated.
- (j) The preliminary plat shall show contours of the tract in intervals of two feet or less referenced to Texas State Plane, North Central Zone NAD 83.
- (k) The plat shall show existing sanitary sewers, water mains, culverts, storm drains, fire hydrants and other underground facilities and structures on or adjacent to the property being developed with pipe sizes and locations indicated.
- (l) The plat shall show preliminary layout of water, sanitary sewer, fire hydrants, culverts, and storm sewer design on or adjacent to the property being developed.
- (m) The plat shall show storm water retention/detention basins as required.
- (n) Show and label all existing and proposed mutual access easements with adjacent properties.

The Planning and Zoning Commission shall take action on the plat within 30 days, following the filing of the Preliminary plat, in accordance with V.T.C.A., Local Government Code § 212.009, as amended. This deadline may be extended if the applicant requests in writing to the extension to act upon the plat. If the plat meets all the requirements of the City's Code of Ordinances, rules, regulations, and state law the Planning and Zoning Commission shall approve the plat. If the plat does not meet the requirements of the City's Code of Ordinances, rules, regulations, and state law the Planning and Zoning Commission shall disapprove the plat, unless the applicant agrees, at the meeting at which action is to be taken, to correct or remedy the deficiency on which the disapproval may be based in the submission of the plat. In such event, the Preliminary plat may be approved subject to the correction or remedying of such deficiency. In the event the Planning and Zoning Commission disapproves a plat or conditionally approves a plat, the Planning and Zoning Commission, shall provide the applicant a written statement of the

conditions for the conditional approval or reasons for disapproval, in accordance with V.T.C.A., Local Government Code § 212.0091, as amended.

After the conditional approval or disapproval of a plat, the applicant may submit to the Planning and Zoning Commission a written response that satisfies each condition for the conditional approval or remedies each reason provided for disapproval, in accordance with V.T.C.A., Local Government Code § 212.0093, as amended. In the event the Planning and Zoning Commission receives such a response from the applicant, the Planning and Zoning Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat not later than the 15th day after the date the response was submitted, in accordance with V.T.C.A., Local Government Code § 212.0095, as amended."

SECTION 4. That Appendix B, of the Code of Ordinances of the City of The Colony, Texas, entitled "Subdivision Ordinance," is hereby amended by amending Section 8, entitled "Final Plat," which shall read as follows:

"Sec. 8. - Final plat.

The developer or surveyor shall submit the final plat to the City planning and development department for review. Submittal shall include a letter or transmittal requesting review and payment of the required filing fees.

The final plat shall contain the following:

- (a) The property lines with accurate distances and bearings, point of commencing, point of beginning, property corners (labeled found or set), basis of bearing, and the exact location and width of all existing or recorded streets intersecting the boundary of the tract.
- (b) True bearings and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat; municipal, township, county, or section lines accurately tied to the lines of the subdivision by distances and bearings.
- (c) An accurate location of the subdivision with reference to the abstract and survey records of Denton County.
- (d) The exact layout including:
 - (1) Street names and right-of-way widths.
 - (2) The lengths of all arcs, radii, internal angles, points of curvatures, length, and bearing of the tangents.
 - (3) All easements for rights-of-way provided for public services or utilities, franchise utilities and any limitations of the easements. Easement dedications should be shown with dashed lines.

- (4) All lot and block numbers and lines with accurate dimensions in feet and hundredths of feet and with bearings and angles to street and alley lines.
- (5) Sight distance easements for alley intersection with streets.
- (e) The accurate location, material, and approximate size of all monuments.
- (f) The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.
- (g) Setback building lines and lot lines.
- (h) Proposed name of the subdivision. The subdivision name needs to be acceptable and assigned by the planning commission.
- (i) Name and address of the owner and abutting property owner and recording information.
- (j) North point, scale, and date.
- (k) Certification by a registered professional land surveyor to the effect that the plat represents a survey made by him and that all the monuments shown thereon actually exist, and that their location, size and material description are shown correctly, all to be placed on final mylar.
- (l) A certificate of ownership and dedication of all streets, alleys, parks and playgrounds to public use forever, signed and acknowledged before a notary public by the owner and lienholder of the land along with complete and accurate description of the land subdivided and the streets dedicated, all to be placed on final mylar.
- (m) Additional legal instruments to properly dedicate easements or rights-of-way as may be necessary.
- (n) Street and alley dedication within plat limits.
- (o) Curve data.
- (p) Corner clips at street intersections where required.
- (q) For floodways and floodplains (FEMA), show the ultimate 100-year surface elevation, floodplain and floodway boundaries, and drainage floodway easements limits. For the floodway easement limits, the drainage easement should be ten feet outside the floodplain. The minimum fill and floor elevations must be specified.
- (r) Utility and drainage information for water, wastewater, and storm sewer.
- (s) Abstract, county, and City limit lines including names.

- (t) North to top or right of sheet.

The Planning and Zoning Commission shall take action on the plat within 30 days, following the filing of the final plat, in accordance with V.T.C.A., Local Government Code § 212.009, as amended. This deadline may be extended if the applicant files in writing a waiver and agrees to the extension to act upon the plat. If the plat meets all the requirements of the City's Code of Ordinances, rules, regulations, and state law the Planning and Zoning Commission shall approve the plat. If the plat does not meet the requirements of the City Code of Ordinances the Planning and Zoning Commission shall disapprove the plat, unless the applicant agrees, at the meeting at which action is to be taken, to correct or remedy the deficiency on which the disapproval may be based in the submission of the plat. In such event, the final plat may be approved subject to the correction or remedying of such deficiency. In the event the Planning and Zoning Commission disapproves a final plat or conditionally approves a final plat, the Planning and Zoning Commission, shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval, in accordance with V.T.C.A., Local Government Code § 212.0091, as amended.

After the conditional approval or disapproval of a final plat, the applicant may submit to the Planning and Zoning Commission a written response that satisfies each condition for the conditional approval or remedies each reason provided for disapproval, in accordance with V.T.C.A., Local Government Code § 212.0093, as amended. In the event the Planning and Zoning Commission receives such a response from the applicant, the Planning and Zoning Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved final plat not later than the 15th day after the date the response was submitted, in accordance with V.T.C.A., Local Government Code § 212.0095, as amended.”

SECTION 5. That Appendix B, of the Code of Ordinances of the City of The Colony, Texas, entitled “Subdivision Ordinance,” is hereby amended by adding a new Section 8.1, entitled “Minor Plats,” which shall read as follows:

“Sec. 8.1. Minor Plats.

- (a) In accordance with Section 212.0065 of the Texas Local Government Code, as amended, the City delegates to the City Manager or his or her designee, the authority to approve minor plats and amendments to minor plats, which:
 - (1) Involve four (4) or fewer lots;
 - (2) Front onto an existing street; and
 - (3) Do not require the creation of any new street or the extension of municipal facilities.
- (b) The City Manager may, for any reason, elect to present the minor plat to the Planning and Zoning Commission for approval.

- (c) The City Manager shall not disapprove the minor plat and shall be required to refer any minor plat that he refuses to approve to the Planning and Zoning Commission for consideration.
- (d) Documentation submitted for approval of minor plats shall meet the final plat requirements contained in this chapter.
- (e) To assist in a complete and thorough review of the proposed minor plat, the following schematic plan types may be required, as determined by the City Manager or his or her designee. Such required plans must be submitted on separate sheets at the same scale as the minor plat.
 - (1) A plan showing existing topography with contour lines of five (5) feet, or less, with the proposed lot layout shown;
 - (2) A plan showing the proposed layout, lot numbers, and setback lines for single family and duplex residential subdivisions;
 - (3) An exhibit showing the entire proposed subdivision layout on a single page will be required if a multiple page minor plat is submitted.”

SECTION 6. That Appendix B, of the Code of Ordinances of the City of The Colony, Texas, entitled “Subdivision Ordinance,” is hereby amended by adding a new Section 8.2, entitled “Amending Plats,” which shall read as follows:

“Sec. 8.2. Amending Plats.

- (a) In accordance with Section 212.0065 of the Texas Local Government Code, as amended, the City delegates to the City Manager or his or her designee, the authority to approve amending plats under the following conditions:
 - (1) The amending plat shall be signed by all persons owning property within the tracts for which the amending plat is submitted.
 - (2) The City Manager may, for any reason, elect to present the amending plat to the Planning and Zoning Commission for approval.
 - (3) The City Manager shall not disapprove the amending plat and shall be required to refer any amending plat which he or she refuses to approve to the Planning and Zoning Commission for consideration.
 - (4) The amending plat shall be solely for one (1) or more of the following purposes:
 - (A) To correct an error in a course or distance shown on the preceding plat;
 - (B) To add a course or distance that was omitted on the preceding plat;

- (C) To correct an error in a real property description shown on the preceding plat;
- (D) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (E) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (F) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (G) To correct an error in courses and distances of lot lines between two (2) adjacent lots if: both lot owners join in the application for amending the plat; neither lot is abolished; the amendment does not attempt to remove recorded covenants or restrictions; and the amendment does not have a material adverse effect on the property rights of the other owners in the plat;
- (H) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (I) To relocate one (1) or more lot lines between one (1) or more adjacent lots if: the owners of all those lots join in the application for amending the plat; the amendment does not attempt to remove recorded covenants or restrictions; and the amendment does not increase the number of lots;
- (J) To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if: the changes do not affect applicable zoning and other regulations of the City; the changes do not attempt to amend or remove any covenants or restrictions; and the area covered by the changes is located in an area that the Planning and Zoning Commission has approved, after a public hearing, as a residential improvement area; or
- (K) To replat one (1) or more lots fronting on an existing street if: the owners of all those lots join in the application for amending the plat; the amendment does not attempt to remove recorded covenants or restrictions; the amendment does not increase the number of lots; and the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

- (b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.”

SECTION 7. That Appendix B, of the Code of Ordinances of the City of The Colony, Texas, entitled “Subdivision Ordinance,” is hereby amended by adding a new Section 8.3, entitled “Conveyance Plats,” which shall read as follows:

“Sec. 8.3. Conveyance plat.

- (a) *Purpose.* The purpose of a conveyance plat is to subdivide land and to provide for the recordation of the same, for the purpose of conveying the property to another owner without developing it. A conveyance plat may be used to sell the property or interests therein, but a conveyance plat does not constitute approval of any type of development on the property. A conveyance plat is merely a map of property approved by the City for the purpose of sale or conveyance. A conveyance plat is not the first step in the development of a project as it does not provide any detail regarding a project. As such the submission and approval of a conveyance plat does not vest any rights in the property.
- (b) *Applicability.* A conveyance plat may be used in lieu of a final plat to record the subdivision of property with the county clerk in the following instances:
 - (1) To record the remainder of a parent tract that is larger than five (5) acres, and that is created by the final platting of a portion of the parent tract, provided that the remainder has adequate access to an existing public right-of-way via frontage on said right-of-way or via the dedication of access easements; or
 - (2) To record the subdivision of a property into parcels larger than five (5) acres in area, provided that each parcel has adequate access to an existing public right-of-way via frontage on said right-of-way or via the dedication of access easements; or
 - (3) To record the subdivision of a property into parcels, five (5) acres or smaller in area, provided that each parcel has direct access to all required public improvements (water, sanitary sewer, storm sewer) via dedicated easements or direct adjacency to existing infrastructure, no portion of the lot is smaller than forty-five (45) feet wide, and each parcel has adequate access to an existing public right-of-way via frontage on said right-of-way or via the dedication of access easements.
- (c) *Approval, variances, expiration, and recording.*
 - (1) The conveyance plat shall be delivered to the director of planning who shall check and verify the plat, prepare a report to the Planning and Zoning Commission setting forth the findings of staff, and file the report and the plat with the Planning and Zoning Commission at or before the meeting where the conveyance plat is scheduled for consideration.

- (2) The approval of a conveyance plat authorizes the conveyance of the parcel(s) created thereon, but does not authorize any type of development on the property. The applicant and future owner(s) of the property remain obligated to comply with all provisions of this chapter upon future development of the property including, but not limited to, all platting requirements, required public improvements, utility extensions, street improvements, right-of-way and easement dedications, and all other applicable requirements of this chapter.
- (3) The conveyance plat shall be recorded in the map and plat records of the county by the director of planning after the plat has received approval. The director of planning shall provide prints of the conveyance plat to the affected offices as they may require. The conveyance plat shall not be returned or released to the subdivider until it has been recorded as provided above and all fees associated with the filing of the plat have been paid to the City.
- (4) Approval of a conveyance plat shall be valid for twelve (12) months from the date of approval. If the conveyance plat has not been filed for record within the allotted twelve (12) months, the plat's approval shall terminate and become void. However, the validity of a conveyance plat's approval may be extended once for a period not to exceed six (6) months, subject to the approval of the director of planning.

(d) *Special approval standards and requirements.*

- (1) The scale, drawing size, features and certificates to be shown, and all other related information that must be provided on a final plat in accordance with section 8 of this chapter, shall be provided on a conveyance plat. All conveyance plats shall also feature the following notations:
 - (A) CONVEYANCE PLAT ONLY: NOT FOR DEVELOPMENT
 - (B) A conveyance plat is a map of property approved by the City for the purpose of sale or conveyance in its entirety or interests thereon defined. Lots created by a conveyance plat may not have all necessary public utilities available for immediate use. No certificate of occupancy shall be issued nor permanent public utility service provided to any lot(s) created by a conveyance plat until all required public improvements have been constructed and accepted and a final plat is filed for record with the county clerk. Selling a portion of property by metes and bounds, except as shown on an approved, filed and accepted conveyance plat, final plat or minor plat is a violation of the City's Code of Ordinances and State Law.
- (2) No permits for development shall be issued nor permanent utility service provided for land that has only been platted via the conveyance plat process. A final plat or

minor plat must be approved subsequent to the filing of said conveyance plat prior to the issuance of permits for development.

- (3) A conveyance plat may be superseded by a revised conveyance plat or a final plat or minor plat in total or in part, through compliance with the procedures and requirements of this chapter.
- (4) If a parcel is to be created adjacent to a right-of-way shown on the City's master thoroughfare plan or another existing roadway with insufficient right-of-way based on its classification type, the appropriate amount of right-of-way based on its roadway classification, as defined by the engineering design manual, shall be dedicated to the City via the proposed conveyance plat.
- (5) If a parcel is to be created adjacent to a hike and bike trail, water line, sewer line or some other public infrastructure as shown by the comprehensive plan, easements of adequate size to accommodate said infrastructure shall be dedicated to the City via the proposed conveyance plat.
- (6) A conveyance plat is not the first step in the development of a project as it does not provide any detail regarding a project. As such the submission and approval of a conveyance plat does not vest any rights in the property.”

SECTION 8. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections 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 of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 9. Any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of this Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 10. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

SECTION 11. This Ordinance shall become effective on September 1, 2019.

PASSED AND APPROVED by the City Council of the City of The Colony, Texas, this 20th day of August, 2019.

/s/Joe McCourry, Mayor

ATTEST:

/s/Tina Stewart, TRMC, City Secretary

APPROVED AS TO FORM:

/s/Jeff Moore, City Attorney