

ORDINANCE

AN ORDINANCE FOR THE CITY OF BURLESON, TEXAS, AMENDING THE CODE OF ORDINANCES FOR THE CITY OF BURLESON, AS FOUND IN APPENDIX A-SUBDIVISION AND DEVELOPMENT, ARTICLE 1, GENERAL PROVISIONS, ARTICLE 2, PLATTING POLICIES, ARTICLE 3, PLAT REQUIREMENTS, ARTICLE 4, COMMUNITY FACILITIES POLICY, AND ARTICLE 9 APPENDICES (COMMUNITY FACILITIES CONTRACT), FOR THE PURPOSE OF MODIFYING PLATTING APPROVAL AUTHORITY, MODIFYING THE FINAL PLAT AND REPLAT POLICIES, DESIGNATING THE PLANNING AND ZONING COMMISSION AS THE APPROVAL BODY FOR FINAL PLATS AND REPLATS WITHIN THE CITY LIMITS, AND AMENDING THE FORM COMMUNITY FACILITIES CONTRACT; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Burleson has adopted Ordinance B-582 (A0508), being Appendix A – Subdivision and Development, Code of Ordinances, City of Burleson, which establishes subdivision regulations and platting policies in accordance with the City’s comprehensive land use plan in order to promote health, safety, morals and the general welfare within the City of Burleson; and

WHEREAS, the City Council desires to amend certain portions of Appendix A, Subdivision and Development, Article 2, Platting Policies, Code of Ordinances, City of Burleson, for the purpose of modification of approval authority for certain types of plats; and

WHEREAS, the City Council desires to amend certain portions of Appendix A, Subdivision and Development, Article 3, Plat Requirements, Code of Ordinances, City of Burleson, for the purpose of modification of approval authority for certain types of plats; and

WHEREAS, The City Council desires to amend of Appendix A – Subdivision and Development Ordinance, Code or Ordinances, City of Burleson for the purpose of updating the contents and form of the City’s Community Facilities Contract; and

WHEREAS, the City of Burleson has complied with the notification requirements of the Texas Local Government Code and the Burleson Zoning Ordinance; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City on March 22, 2022, and by the City Council of the City on April 18, 2022 with respect to the use changes described herein; and

WHEREAS, the City Council has determined that the proposed ordinance amendment

promotes the health, safety, morals and the general welfare within the City of Burleson and is in the best interest of the City of Burleson.

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

Section 1. Appendix A – Subdivision and Development of the Code of Ordinances is hereby amended as follows:

- A. The definition of “Community facilities contract” found in Sec. 1.4, “Definitions” of Article 1 of Appendix A – Subdivision and Development Ordinance, Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

Community facilities contract. A contract between the developer and city for the construction of community facilities.

- B. Subsection (a) entitled “Development assistance committee (DAC) comments” of Section 2.6 of Article 2 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby amended to read as follows:

All plats accepted for review shall be examined by the DAC for compliance with city ordinances. The DAC may make comments to assist the developer in meeting the requirements of this appendix. The plat will be forwarded to the commission and council when applicable for consideration along with any DAC comments that have not been addressed. All DAC comments must be addressed or waived through a variance request before the plat will be recorded. Failure of the DAC to make specific comments does not relieve the property owner from compliance with all ordinances.

- C. Subsection (b) entitled “Schedule” of Section 2.6 of Article 2 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby amended to read as follows:

The plat shall be scheduled for consideration by the commission or city council within 30 days after the date the plat application is accepted. The plat application is considered accepted upon the determination that the plat either meets the ordinance or a variance to an ordinance requirement has been requested by the applicant and when all application fees are paid.

- D. Subsection (1) entitled “Preliminary plat requirements” of Section 3.2 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby renamed “Preliminary plat exemptions” and amended to read as follows:

a. Minor and Amending plats. Minor, amending, and plats that do not require the creation or modification of public improvements may be exempted from the requirements for a preliminary plat.

b. Final Plat. The preliminary plat may be submitted simultaneously with a final plat application and acted upon as a final plat with the approval of the development advisory committee if it meets the following conditions: (i) does not require the acceptance of public infrastructure by the City prior to filing the final plat, and (ii) will be developed in a single phase.

- E. Subsection (5)(a) entitled “Development assistance committee” of Section 3.2 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby amended to read as follows:

The preliminary plat shall be examined by the DAC for compliance with city ordinances. The DAC may make comments to assist the developer in meeting the requirements of this appendix. Upon determination of the administrative official that the plat substantially meets the ordinance requirements, the preliminary plat will be forwarded to the planning and zoning commission for approval. If all DAC comments have not been addressed prior to forwarding the plat to the planning and zoning commission, the preliminary plat will be forwarded to the commission with a recommendation for the commission to approve subject to DAC comments.

- F. Subsection (5)(c) entitled “City council” of Section 3.2 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby amended to read as follows:

The administrative official shall then only place the preliminary plat on the city council agenda if an appeal of the planning and zoning commission’s decision is made in writing by the applicant within 10 calendar days. If the decision is appealed city council shall approve, approve with conditions or disapprove the approval of the preliminary plat.

- G. Subsection (5)(f) entitled “Denial of preliminary plat” of Section 3.2 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby amended to read as follows:

If the commission or city council denies the preliminary plat, no final plat shall be accepted. The developer, at any time thereafter, may submit a new design for approval, following the same procedures as required for the original application, including the payment of application fees.

- H. Subsection (11) entitled “Preliminary plat exemptions” of Section 3.2 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby added to read as follows:

Minor plats, amending plats, and plats that do not require the creation or modification

of public improvements may be exempted from the requirements for a preliminary plat. Additionally, residential subdivisions that are built in a single phase may be exempted from the requirement for a preliminary plat upon the approval the Director, or their designee.

- I. Subsection (3) (1) (c) entitled “Final plat” of Section 3.3 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby added to read as follows:

The final plat may be submitted simultaneously with a preliminary plat application and acted upon as a final plat with the approval of the development advisory committee if it meets the following conditions: (i) does not require the acceptance of public infrastructure prior to the filing of the final plat, and (ii) will be developed in a single phase.

- J. Subsection (3)(b) entitled “Plats within the city’s extraterritorial jurisdiction” of Section 3.3 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby renamed “Planning and zoning commission” and amended to read as follows:

The planning and zoning commission shall, within 30 days of the date of application acceptance, approve, approve with conditions or disapprove the final plat. If approved with conditions, the commission shall express its approval as approval with conditions and state the conditions of such approval, if any, or if denied, shall express its denial and its reasons therefor. Upon planning and zoning commission consideration, the following actions may occur:

- 1.If approved, plat may be recorded with the county upon completion of the items in subsection (4) (recording of final plats) below.
- 2.If approved with conditions, applicant may either address the conditions prior to recording with the county or appeal the conditions to the city council.
- 3.If denied, applicant may appeal the denial to the city council.

- K. Subsection (3)(c) entitled “Plats within the city limits” of Section 3.3 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby renamed “City council” and amended to read as follows:

The city council is the approval body for the appeal of any decision made in writing by the applicant on final plats within the ETJ and city limits. The administrative official shall place the final plat on the city council agenda with a report summarizing the action of the commission. The city council shall approve, approve with conditions or disapprove the final plat.

- L. Subsection 3.3(4)(g) of Sec. 3.3, “Final plat” of Article 3 of Appendix A – Subdivision and Development Ordinance, Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

g. A community facilities contract for the public infrastructure has been executed by the developer and city.

- M.** Subsection 3.6(8)(g) of Sec. 3.6, “Replat” of Article 3 of Appendix A – Subdivision and Development Ordinance, Code of Ordinances, City of Burleson, Texas, is hereby amended to read as follows:

g. A community facilities contract for the public infrastructure has been executed by the developer and city, if applicable.

- N.** Subsection (4)(b) entitled “Plats within the city’s extraterritorial jurisdiction” of Section 3.6 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby renamed “Planning and zoning commission” and amended to read as follows:

The planning and zoning commission is the approval body for replats within the city’s extraterritorial jurisdiction and city limits. The planning and zoning commission shall, within 30 days of the date of application acceptance, approve, approve with conditions or disapprove the replat. If approved with conditions, the commission shall express its approval as approval with conditions and state the conditions of such approval, if any, or if denied, shall express its denial and its reasons therefor. Upon planning and zoning commission consideration, the following actions may occur:

1. If approved, plat may be recorded with the county upon completion of the items in subsection 3.3(4) (recording of final plats).
2. If approved with conditions, applicant may either address the conditions prior to recording with the county or appeal the conditions to the city council.
3. If denied, applicant may appeal the denial to the city council.

- O.** Subsection (4)(c) entitled “Plats within the city limits” of Section 3.6 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby renamed “City council” and amended to read as follows:

The city council is the approval body for the appeal of any decision made in writing by the applicant on replats within the ETJ and city limits. The administrative official shall place the replat on the city council agenda with a report summarizing the action of the commission. The city council shall approve, approve with conditions or disapprove the replat.

- P.** Subsection (5)(a) entitled “Approval and recoding of replats” of Section 3.6 of Article 3 of Appendix A – Subdivision and Development of the Code of Ordinances of the City of Burleson is hereby amended to read as follows:

If the commission or council approve a replat, it shall be filed of record upon compliance with requirements of this appendix including compliance with all DAC comments and all conditions of approval.

Section 3. Article 4, “Community Facilities Policy (Public Infrastructure)” of Appendix A – Subdivision and Development Ordinance, Code of Ordinances, City of Burleson, Texas, is hereby repealed and replaced in its entirety with the attached Exhibit A.

Section 4. The form Community Facilities Contract contained in Sec. 9.1, “Community facilities contract” of Appendix A – Subdivision and Development Ordinance, Code of Ordinances, City of Burleson, Texas, is hereby repealed and replaced in its entirety with the attached Exhibit B.

Section 5. The findings set forth above in the recitals of this Ordinance are incorporated into the body of this Ordinance as if fully set forth herein.

Section 6. This ordinance shall be cumulative of all provisions of ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. To the extent that the provisions of the City of Burleson’s various development ordinances conflict with this ordinance, the terms of this ordinance shall control.

Section 7. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 8. Any complaint, notice, notice of violation, action, cause of action, hearing request, appeal, or claim which prior to the effective date of this Ordinance that has been initiated or arisen under or pursuant to any other ordinance(s) shall continue to be governed by the provision of that ordinance or ordinances, and for that purpose that ordinance or ordinances shall be deemed to remain and shall continue in full force and effect.

Section 9. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Burleson, and that the sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 10. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 11. Pursuant to Section 36 of the Charter of the City of Burleson, that this ordinance shall take effect after its passage and publication, and that the City Secretary is hereby directed to give notice of the passage of this ordinance by causing the caption or title and the penalty clause of this ordinance to be published once in a newspaper of general circulation in the city and on the city’s website.

Section 12. Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this article shall

be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in V.T.C.A. Local Government Code 54.012 and as may be amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

PASSED AND APPROVED:

First Reading: the _____ day of _____, 20_____.

Second Reading: the _____ day of _____, 20_____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

Amanda Campos, City Secretary

APPROVED AS TO FORM:

E. Allen Taylor, Jr., City Attorney