

CITY OF LAVON
ORDINANCE NO. 2023-10-04

Subdivision Code Amendment – Waivers

AN ORDINANCE OF THE CITY OF LAVON, TEXAS, ENACTING AN AMENDMENT TO THE CITY OF LAVON CODE OF ORDINANCES, CHAPTER 9 “PLANNING AND DEVELOPMENT REGULATIONS”, ARTICLE 9.02 “SUBDIVISION ORDINANCE”, DIVISION 1 “GENERALLY” TO ADD SECTION 9.02.010 “WAIVERS”, TO PROVIDE PROCEDURES FOR REQUESTING WAIVERS OF PROVISIONS OF THE CITY’S SUBDIVISION REGULATIONS; PROVIDING SEVERABILITY, AND SAVINGS AND REPEALING CLAUSES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR A PENALTY; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Lavon, Texas (the “City”) is a home rule municipality; and

WHEREAS, Section 51.012 of the Texas Local Government Code authorizes a municipality to adopt ordinances necessary for the government, interest, welfare, or good order of the municipality; and

WHEREAS, the City Council of the City (the “City Council”) desires to facilitate the subdivision process by implementing procedures for applying for waivers to subdivision regulations in Chapter 9 “Planning and Development Regulations”, Article 9.02 “Subdivision Ordinance”; and

WHEREAS, Section 212.002 of the Texas Local Government Code authorizes a municipality to, after a public hearing on the matter, adopt rules governing plats and subdivisions of land within the municipality’s jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and

WHEREAS, a public hearing on this Ordinance was held on October 17, 2023; and

WHEREAS, the City Council finds that this Ordinance substantially advances the public health, safety, and general welfare of the citizens of the City, and healthful development of the municipality.

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

Section 1. Incorporation of Recitals. The foregoing recitals hereby are incorporated by reference and made a part hereof as if fully set forth.

Section 2. Amendment to Subdivision Ordinance. Chapter 9 “Planning and Development Regulations”, Article 9.02 “Subdivision Ordinance”, Division 1 “Generally” of the City’s Code of Ordinances is hereby amended to add Section 9.02.010 “Waivers” to read entirely as provided in **Exhibit A**, attached hereto and incorporated herein for all purposes.

Section 3. Severability Clause. 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.

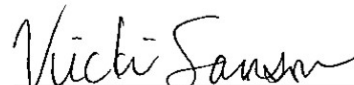
Section 4. Savings/Repealing. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being 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 5. Penalty. A violation of any provisions of this article shall be deemed to be a misdemeanor and, upon conviction of such violation, shall be punishable by a fine as provided in section Article 9.02 and Section 1.01.009 of the City of Lavon Code of Ordinances. Each day on which the provisions of this Ordinance are violated shall constitute a separate offense.

Section 6. Open Meeting. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.042, Texas Government Code.

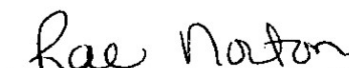
Section 7. Effective Date. This Ordinance shall take effect immediately upon its passage.

DULY PASSED AND APPROVED by the City Council of the City of Lavon, Texas, this 17th day of October 2023.



Vicki Sanson, Mayor

ATTEST:



Rae Norton, City Secretary



Exhibit A

9.02.010 "Waivers"

§ 9.02.010 Waivers.

- (a) The City Council may authorize a waiver from these subdivision regulations when, in its sole opinion, an unnecessary hardship will result from requiring strict compliance, or where the purposes of these regulations may be served by an alternative proposal. Pecuniary hardship to the subdivider, standing alone, shall not meet the standards for a waiver.
- (b) In granting a waiver, the City Council may prescribe conditions that it deems necessary or desirable to protect the public interest. In making the findings hereinbelow required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and the probable effect of such waiver upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. Additionally, no waiver shall be granted unless the Council finds that all of the following criteria exist:
 - (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this subdivision ordinance would deprive the applicant of the reasonable use of the land; and
 - (2) That strict application of the provisions of this subdivision ordinance requested to be waived is not necessary to promote the public health, safety, and welfare; and
 - (3) That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this subdivision ordinance, and will not otherwise be injurious to other property owners in the vicinity; and
 - (4) That the granting of the waiver will be in harmony with the general purpose, intent, and spirit of this subdivision ordinance, and not conflict with provisions of the City's zoning ordinance, comprehensive plan, or other regulations of the City.
- (c) Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such waiver is granted.
- (d) A petition for a waiver shall be submitted in writing to the City Manager or their designee before the plat is submitted for consideration. The petition shall fully state the grounds for the waiver application, and all of the facts relied upon by the applicant. The applicant shall submit all the specific facts and pertinent data upon which a waiver has been requested at least three (3) weeks prior to the first requested meeting date. All waivers shall be considered by the Planning and Zoning Commission for recommendation of approval, approval with conditions, or denial. All waivers shall have final approval, approval with conditions, or disapproval by the City Council.