

Subdivision Ordinance Amendment 2023-004

An Ordinance of the City of Plano, Texas, amending Article I (General Provisions), Article III (Platting Procedures), and Article VII (Replatting Procedures) of the Subdivision Ordinance of the City, Ordinance No. 2017-11-4, as heretofore amended, to clarify the platting procedures for properties that receive zoning variances for minimum yards; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

WHEREAS, the City of Plano has required that zoning setback lines for residential properties be shown on plats; and

WHEREAS, the property owners within the said City have historically sought relief from the zoning setback lines from the Board of Adjustment of the City as permitted under City ordinances and Chapter 211 of the Texas Local Government Code; and

WHEREAS, it is onerous for a property owner, having received a variance from the Board, to comply with the replatting process solely for the removal of the affected zoning setback line shown on the plat; and

WHEREAS, staff recommends that, pursuant to Section 212.0045 of the Texas Local Government Code, the said City waive the need for replatting in those circumstances; and

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Subdivision Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 8th day of January 2024, for the purpose of considering a change in the Subdivision Ordinance; and

WHEREAS, the City Secretary of said City accordingly caused to be issued and published the notices required by laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Subdivision Ordinance, on the 8th day of January 2024; and

WHEREAS, the City Council is of the opinion and finds that such change should be adopted, would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

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

Section I. Section 1.5 (Jurisdiction) of Article I (General Provisions) of the Subdivision Ordinance of the City, Ordinance No. 2017-11-4, as the same has been heretofore amended, is hereby further amended, such portions of section to read as follows:

...

- h. Except as provided in Sections 3.6.c.5, 4.5, and 7.1.d., no building permit or certificate of occupancy shall be issued for any parcel or tract of land inside the city limits until such property has received final plat approval and is in substantial conformity with the provisions of these regulations, and no private improvements shall take place or be commenced except in conformity with these regulations.
- i. For plats approved prior to January 8, 2024, if the Board of Adjustment grants a zoning variance to a minimum yard shown as a building setback line on a plat, the Building Official is authorized to issue a building permit or certificate of occupancy for development on the lot without requiring the removal of the platted building setback line consistent with the Board of Adjustment variance.

Section II. Subparagraph (g) of Paragraph 2 (General Application Requirements) of Subsection c (Application Procedure and Requirements) of Section 3.2 (Preliminary Plat) of Article III (Platting Procedures) of the Subdivision Ordinance of the City, Ordinance No. 2017-11-4, as the same has been heretofore amended, is hereby further amended to delete the Subparagraph in its entirety and reserve it for future use:

(g) [Reserved]

Section III. Section 7.1 (Replatting of Land) of Article VII (Replatting Procedures), of the Subdivision Ordinance of the City, Ordinance No. 2017-11-4, as the same has been heretofore amended, is hereby further amended by adding a new subsection, such additional subsection to read in its entirety as follows:

- d. Pursuant to the authority granted to the city under Section 212.0045 of the Texas Local Government Code, no replatting is required to remove a building setback line from a recorded plat if the property owner has applied for and received a zoning variance to a minimum yard from the Board of Adjustment. The variance shall be recorded in the county land records by the applicant with proof of recording provided to the city prior to issuance of a building permit.

Section IV. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section V. The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section VI. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VII. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VIII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED on the 8th day of January, 2024.

John B. Muns, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY