

**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2017-09-02**

Subdivision Code – Adequate Public Facilities

**AN ORDINANCE OF THE CITY OF LAVON, TEXAS AMENDING ORDINANCE NO. 2002-01-03 SUBDIVISION ORDINANCE, BY ADDING ADDITIONAL REQUIREMENTS FOR ADEQUATE PUBLIC FACILITIES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR PUBLICATION OF THIS CAPTION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lavon, Texas (“City Council”) has determined it is in the best interest of the citizens to amend the regulations governing the development and subdivision of land within the City of Lavon, Texas (the “City”); and

**WHEREAS**, the City Council has determined that the adoption of this amendment is done to ensure the integrity of public infrastructure within the City of Lavon, Texas; and

**WHEREAS**, the City Council has further determined the following amendment to the Subdivision Ordinance would provide for and would be in the best interest of the safety, health and general welfare of its citizens.

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

**Section 1. Findings Incorporated.** The findings set forth above are incorporated as if fully set forth herein.

**Section 2. Amendment.** **Section 3. Purposes, Authority and Jurisdiction** of Ordinance No. **2002-01-03**, Subdivision Ordinance, shall be amended by the addition of **Section 3.07. Adequate Public Facilities** and **Section 3.08 Design and Improvement Requirements** as follows:

**3.07 ADEQUATE PUBLIC FACILITIES**

**1. Purpose and policy**

(a) These regulations are designed and intended to assist in achieving the following purposes and shall be administered so as to:

- (1) Promote the health, safety, morals and general welfare of the community and the safe, orderly and healthful development of the city;

- (2) Establish adequate policies and procedures to guide development of the city and its extraterritorial jurisdiction;
- (3) Provide for the establishment of minimum specifications for construction and engineering design criteria for public infrastructure improvements to maintain land values, reduce inconveniences to residents of the area, and to reduce related unnecessary costs to the city for correction of inadequate facilities that are designed to serve the public;
- (4) Ensure that development of land and subdivisions shall be of such nature, shape and location that utilization will not impair the general welfare;
- (5) Minimize the risk of the dangers of fires, floods, erosion, landslides, or other such menaces;
- (6) Preserve the natural beauty and topography of the city and to ensure appropriate development with regard to these natural features;
- (7) Realistically and harmoniously relate new development of adjacent properties;
- (8) Provide the most beneficial circulation of traffic throughout the city, having particular regard to the avoidance of congestion in the streets and highways, and pedestrian traffic movements; and to provide for the proper location and width of streets;
- (9) Ensure that public facilities for water supply, drainage, disposal of sanitary and industrial waste, and parks are available for every building site and with adequate capacity to serve the proposed subdivision before issuance of a certificate of occupancy or release of utility connections or final inspection within the boundaries of the plat;
- (10) Assure that new development adequately and fairly participates in the dedication and construction of public infrastructure improvements that are necessitated by or attributable to the development or that provide value or benefit that makes the development feasible;
- (11) Help prevent pollution, assure the adequacy of drainage facilities, control stormwater runoff, safeguard the water table, and encourage the wise use and management of natural resources throughout the city and its extraterritorial jurisdiction in order to preserve the integrity, stability, and beauty of the community and the value of the land; and
- (12) Provide for open spaces through the most efficient design and layout of the land, while preserving the land use intensity as established in the zoning ordinance of the city.

(b) To carry out the purposes hereinabove stated, it is declared to be the policy of the city to guide and regulate the subdivision and development of land in such a manner as to promote orderly growth both within the city and where applicable, within its extraterritorial jurisdiction.

(c) Land must not be platted until proper provision has been made for adequate public facilities for roadways, drainage, water, wastewater, public utilities, capital improvements, parks, recreation facilities, and rights-of-way for streets.

(d) Proposed plats or subdivisions which do not conform to the policies and regulations shall be denied, or, in lieu of denial, disapproved conditioned on conformance with conditions.

(e) There shall be an essential nexus between the requirement to dedicate rights-of-way and easements and/or to construct public works improvements in connection with a new subdivision and the need to offset the impacts on the city's public facilities systems created by such new development.

## **2. Adequate public facilities**

(a) Land proposed to be subdivided must be served adequately by essential public facilities and services, including water and wastewater facilities, roadway and pedestrian facilities, drainage facilities and park facilities. An application for a plat or development may be denied unless adequate public facilities necessary to support and serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being platted or off-site.

(b) It is necessary and desirable to provide for dedication of rights-of-way and easements for public works improvements to support new development at the earliest stage of the development process.

(c) The city desires to assure both that impacts of new development are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a new development be required to contribute not more than its proportionate share of such costs.

(d) Proposed public works improvements serving new development shall conform to and be properly related to the public facilities elements of the city's adopted master plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.

## **3. Minimum standards**

(a) The standards established in this division for dedication and construction of public works improvements and infrastructure are based upon engineering studies and historical usages and demands by different categories of development. These regulations identify certain minimum requirements and sizes for utilities, roadways, parks and other facilities that the city council has determined to be necessary in order to provide the minimum level of service necessary to protect or promote the public health, safety, and welfare and to assure maintenance of the quality of life

currently enjoyed by the citizens of Lavon. It is the intent of these regulations that no developments occur until and unless these minimum levels of service are met. Therefore, each subdivision in the city shall be required to dedicate, construct and/or upgrade required facilities and infrastructure to a capacity that meets these minimum levels.

(b) For each category of public infrastructure, a minimum standard of infrastructure, and in some cases, service level, has been developed based upon historic studies and construction projects of the city and other cities. These minimum standards take into consideration the soil conditions and topographic configuration of the city, the use and impact analyses of the North Central Texas Council of Governments in developing standard specifications for public works installation, and other historical use and performance experiences of the city that reflect the minimum level of facilities and services that must be built to meet the health, safety and welfare of the citizens of Lavon.

(c) In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the city may require the dedication of easements and rights-of-way for and construction of on-site or off-site public works improvements for water, wastewater, road, drainage or park facilities to serve a proposed subdivision, or require the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the city may deny the subdivision until the public facilities and services can be provided, or require that the development be phased so that the availability and delivery of facilities and services coincides with the demands for the facilities created by the development.

(d) Whenever the city council determines that levels of service in excess of these minimum standards are necessary in order to promote the orderly development of the city, the owner shall qualify for reimbursement for any costs in excess of the minimum levels of service through city participation, to the extent funds are available by a pro rata reimbursement policy or other means adopted by the city.

#### **4. Adequacy of specific facilities**

(a) All lots to be platted shall be connected to a public water system which has capacity to provide water for domestic use and emergency purposes, including adequate fire protection.

(b) All lots to be platted shall be served by an approved means of wastewater collection and treatment. The city engineer shall be responsible for determining the approved means of wastewater collection and treatment. The city may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity.

(c) Proposed roads shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall be properly related to the applicable thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New subdivisions shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development shall have adequate access to the thoroughfare network.

(d) Drainage improvements serving new development shall be designed to prevent overloading the capacity of the downstream drainage system. The discharge of the new development cannot exceed existing conditions at the time of development. The city may require the phasing of development, the use of control methods such as retention or detention, the construction of off-site drainage improvements, or alternative measures approved by the City Engineer in order to mitigate the impacts of the proposed subdivision.

## **5. Timing of dedication and construction**

(a) The city shall require an initial demonstration that a proposed subdivision shall be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a planned development zoning district, or other overlay zoning district; or a developer's agreement; or an application for a preliminary or final plat.

(b) The obligation to dedicate rights-of-way for or to construct one or more public works improvements to serve a new subdivision may be deferred until approval of a subsequent phase of the subdivision, at the discretion of the City Council, upon written request of the property owner, or at the city's own initiative. As a condition of deferring the obligation, the city may require that the subdivider include provisions in the developer's agreement, specifying the time for dedication of rights-of-way for or construction of public works improvements serving the subdivision.

## **6. Extension Policies.**

All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, gas lines, electric lines, telecommunications lines, and cable lines shall be constructed through new development to promote the logical extension of public infrastructure. The City may require the applicant of a subdivision to extend off-site improvements to reach the subdivision or oversize required public facilities to serve anticipated future development as a condition of plat approval.

## **3.08 DESIGN AND IMPROVEMENT REQUIREMENTS**

### **1. Generally**

If the submission of a traffic impact analysis and the adequacy determination for roadways and intersections indicates that the proposed subdivision would cause a reduction in the level of service for any roadway or intersection within the study area the proposed subdivision shall be denied unless the subdivider agrees to one of the following conditions:

- (1) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
- (2) A reduction in the density of [or] intensity of development;

(3) The dedication or construction of facilities needed to achieve the level of service required herein; or

(4) Any combination of techniques identified herein that would ensure that subdivider [subdivision] will not occur unless the level of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of the subdivision.

## **2. Street arrangement**

(a) Unless otherwise approved by the city council, provisions must be made for the extension of existing dead-end streets within the recorded adjacent subdivision or the adjacent land.

(b) Proposed streets must conform to existing topography as nearly as possible, in order that drainage problems may be reduced. Streets should, wherever possible, follow valleys or depressions so as to form a collection system for surface water.

## **3. Street design**

(a) The subdivider shall ensure that the subdivision is served by streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the subdivision. All dedicated streets shall conform to the minimum pavement widths and design standards specified by the city.

(b) A subdivision shall be supported by a road network having adequate capacity, and safe and efficient traffic circulation. The applicant shall submit a traffic impact analysis to the city engineer, if the property to be subdivided:

(1) Consists of 50 or more dwelling units; or

(2) Will generate 500 or more one-way trips per day; or

(3) Involves collector and/or arterial streets not appearing on the city's thoroughfare plan.

(c) The traffic impact analysis shall take into consideration the need to accommodate traffic generated by the subdivision, land to be developed in common ownership and other developed property, and the adequacy of the road network for the subdivision. If the property to be developed is intended as a phase in a larger subdivision, or constitutes a portion of the land to be ultimately developed, the city may require a demonstration of adequacy for additional phases or portions of the property as a condition of approval for the proposed plat. If the applicant submits a traffic impact analysis for an entire phased subdivision, the city may require an update of the study for later phases of the subdivision.

(d) A subdivision must be connected to the city's improved thoroughfare and street system by one or more approach roads of such dimensions and approved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may

be increased depending on the density or intensity of the proposed development, if such need is demonstrated by traffic impact analysis.

(e) The subdivision shall be designed to provide adequate emergency access for public safety vehicles.

(f) Where a traffic impact analysis demonstrates the need for off-site improvements the subdivider shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the subdividers.

#### **4. Improvement of adjacent and abutting existing streets and utilities**

In the case of existing adjacent or abutting roads, the city may require that the entire right-of-way be dedicated and/or improved to the city's design standards, based upon factors including the impact of the proposed subdivision on the road, safety to the traveling public, geometric conflicts, capacity interruptions, condition, structural capability, effects on life expectancy and maintenance requirements of the road, the impact of the proposed subdivision on other roads, the timing of this development in relation to need for improving the road, the impact of the traffic on the road and city's roadway system as a whole.

#### **5. Adjoining streets and land**

The system of streets designated for the subdivision, except in very unusual cases, must connect with streets already dedicated in adjacent subdivisions; and where no adjacent connections are platted, must in general be the reasonable projection of streets in nearest subdivision tracts, and must be continued to the boundaries of the tracts subdivided, so that other subdivisions may connect therewith.

#### **6. Access to major thoroughfares from subdivisions**

New subdivisions shall be designed so that no residential driveway has direct access to a major thoroughfare unless the planning and zoning commission and city council find that such access is unavoidable due to topographic impediments such as creeks, floodplains or other such natural obstacle. A major thoroughfare is defined as any street with a designated speed limit of 40 miles per hour or higher.

#### **7. Drainage easements**

(a) Provisions for drainage must require "EPA - Storm Water" to be clean and clear, by adoption of the North Central Texas Council of Government's (NCTCOG) "Storm Water Quality - Best Management Practices for Construction Activities - First Edition, Feb., 1993."

(b) It shall be the responsibility of the developer to acquire any necessary off-site drainage easements as required by the city engineer.

#### **8. Storm drainage**

(a) The following policy shall govern the installation of all drainage facilities within the corporate limits of the city and its extraterritorial jurisdiction (ETJ) area.

(b) Storm sewer systems shall be designed to convey the 100-year design storm. Design shall conform to the city manual for the design of storm drainage systems. An adequate storm drain system, consisting of inlets, pipes and other underground drainage structures with approved outlets, shall be constructed where the runoff of stormwater and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities as per city specifications. Where there is a question as to the justification or size of facilities required, doubt will be resolved in favor of additional drainage capacity.

(c) All open drainage ditches shall be concrete-lined unless otherwise stated in writing by the city engineer and approved by the city council.

(d) The city council may require the developer to construct any storm drainage facility, when in judgment of the city engineer, the facility is needed for the proper and orderly development of the area.

## **9. Sanitary sewage**

(a) All developments within the jurisdiction of the city shall be required to have approved sanitary sewerage facilities and shall be required to connect to the city's gravity facilities. An on-site sewage facility system cannot be installed when any part of an existing sanitary sewerage facility is practicably accessible.

(b) The city shall determine the size of the approach sewer mains required to reach the development to be served by the application of its standard design criteria, including the comprehensive master plan requirements. If the approach main, so determined to be required, is twelve (12) inches or smaller, the full cost of the approach main shall be paid by the developer, regardless of the size required by the development alone. If the size of the approach main, so determined, is greater than twelve (12) inches, the city shall pay the extra cost above a twelve-inch main, if funds are available. In case a single development will require larger than a twelve (12) inch sewer main, the developer will pay the full cost of the line required to serve the property. Where there is a question as to the size of the facilities required, it shall be resolved in favor of additional capacity.

**Section 3. Penalties.** 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 Lavon, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

**Section 4. Cumulative/Repealer Clause.** This ordinance shall be cumulative of all provisions of state or federal law and all ordinances of the City of Lavon, Texas, except



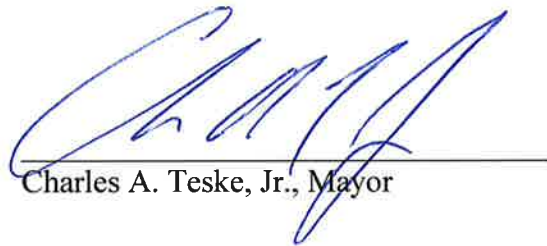
where the provisions of this ordinance are in direct conflict with the provisions of such other ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

**Section 5. Severability.** In the event any clause, phrase, provision, sentence, or any part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provisions hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Lavon, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

**Section 6. Open Meeting.** It is hereby officially found and determined that all notice required by law has been given and notice of this Ordinance was posted and the Ordinance passed in accordance with the Open Meeting Act.

**Section 7. Effective Date.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**DULY PASSED and APPROVED** by the City Council of the City of Lavon, Texas, on the 5<sup>th</sup> day of September 2017.

  
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Charles A. Teske, Jr., Mayor

**ATTEST:**

  
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Kim Dobbs, City Administrator | City Secretary

