

ORDINANCE NO. 2021-O-078

**AN ORDINANCE AMENDING CHAPTER 17 – SUBDIVISIONS, ARTICLE II, PLATTING REQUIREMENTS OF THE CODE OF ORDINANCES OF THE CITY OF ATHENS, TEXAS, PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.**

**WHEREAS**, on the 14<sup>th</sup> day of June 2021, the City Council of the City of Athens, Texas after due notice as required by law, held the first reading of the ordinance as required by Article III, Section 3.11 of the City of Athens Charter.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, TEXAS**

Section 1. The City Council hereby authorizes the repeal of Chapter 17, Article II of the Code of Ordinances entitled “PLATTING REQUIREMENTS” in its entirety and the adoption in its place of the following:

CHAPTER 17 - SUBDIVISIONS  
ARTICLE II – PLATTING REQUIREMENTS

**Sec. 17-5. Division of property.**

- (a) Every owner of any tract of land who divides the tract into two (2) or more parts shall cause a plat to be made which accurately describes and locates the entire tract by metes and bounds as required in this article.
- (b) A division of a tract under this article includes a division regardless of whether it is made by using a metes and bounds description a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.
- (c) No plat may be recorded and no transfer of title to any part of a tract of land shall be made until a plat, accurately describing the property to be conveyed, is approved in accordance with these provisions and recorded.

**Sec. 17-6. Permits for construction activity or public improvements.**

- (a) Except as provided in section 17-3, the administrator shall not issue permits for any construction activity or allow any public improvements for a development until a plat is approved and filed of record.
- (b) Upon written request from the developer, the administrator may allow the construction of public improvements prior to plat recording with accepted plans and development agreements.
  - (1) In order for the request to be granted, the developer must demonstrate that an inability to record the plat within a reasonable timeframe is the result of recording requirements that do not have a substantive impact upon the development of the land.
  - (2) If the city allows the development of public improvements prior to plat recording, the city shall not accept those improvements until a plat is filed of record.
- (c) No building permit shall be issued nor shall any public utility service be provided for land without a plat as required by this article unless exempt under V.T.C.A., Local Government Code ch. 212.

**Sec. 17-7. Development of land outside the city limits.**

- (a) The standards in this chapter shall apply to all subdivision within the city's extraterritorial jurisdiction subject to the provisions in V.T.C.A., Local Government Code ch. 212, as amended. Anyone wishing develop land within the city's extraterritorial jurisdiction shall file a subdivision plat with the city. Plats filed within the extraterritorial jurisdiction shall be designed and developed in accordance with the city's regulations. Final plats approved by the city shall be filed of record with the County Clerk of Henderson County. No construction will be permitted on the tract until the plat is filed of record.
- (b) Those wishing to petition for annexation may file a written petition with the city manager. No fee is charged by the city for processing annexation petitions. An appropriate zoning classification shall be established by ordinance on all territory herein after annexed into the city and shall thereafter be subject to the rules and regulations of the city.

**Sec. 17-8. Guiding policies for administration of this article.**

Proposed plats or subdivisions that do not conform to the purposes listed above and the following policies and regulations shall be denied. These regulations shall be administered in accordance with the following policies.

- (1) *Conformity with the comprehensive plan.* Plats and proposed public improvements shall conform to the city's comprehensive plan and any adopted constituent elements, including the master thoroughfare plan, and all other plans or development related ordinances of the city.
- (2) *Conformity with the zoning ordinance.* No subdivision shall be approved unless it complies with all applicable zoning, design, and development regulations set forth in the zoning ordinance, including, but not limited to:
  - a. The requirements of the zoning district in which the property is located.
  - b. The requirements relevant to specific uses.
  - c. The infrastructure design guidelines.
- (3) *Sites and access for comprehensive plan elements.* Adequate sites and convenient access for schools, parks, playgrounds, and other community services indicated in the city's comprehensive plan and all applicable ordinances shall be provided in accordance with the intent, policies, and provisions of this article.
- (4) *Developer responsibility.* The developer is responsible for the accuracy of all information furnished in the design of facilities as they pertain to both the proposed development and other properties affected by the proposed development. The city's concurrence in the design does not relieve the developer of this responsibility.
- (5) *Effect of development on general welfare.* The nature, shape, and location of land to be platted or developed shall enable it to be used without danger to health or increased risk of fire, floods, erosion, stormwater pollution, landslides, or other menaces to general welfare.

**Sec. 17-9. Pre-application meeting.**

- (a) The purpose of the pre-application meeting is to provide an opportunity for an informal evaluation of an applicant's proposal and for the applicant to become familiar with the city's submittal requirements, development standards, and approval criteria. The administrator or designee may provide recommendations and/or inform the applicant of any potential issues that might be presented to the applicable decision-making body. This provides an opportunity to address any major issues before the applicant and the city spend substantial time and expense on the application.
- (b) City staff shall coordinate with the applicant and facilitate the meeting, including scheduling the time and location of the meeting. At the meeting, city staff may:
  - (1) Determine the required application(s) and the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially).

- (2) Provide the applicant with application materials and inform the applicant of submittal requirements and procedures.
  - (3) Provide the applicant with an estimated time frame for the review process.
  - (4) Based on a conceptual plan of the proposal (if required), generally discuss compliance with the ordinance's zoning, use, density, and design and development standards, and attempt to identify any potentially significant issues regarding compliance.
  - (5) Refer the applicant to other departments or agencies to discuss any potential significant issues prior to application submittal.
  - (6) Consider or answer questions by the applicant relating to the application process, the standards established in this article, required documents, fees, and any other inquiries relating to the application.
- (c) Applicants are advised that the meeting should take place prior to any substantial investment in time or resources, such as a land acquisition for a proposed development, site and engineering design, or the preparation of other data.
- (d) The informal evaluation and recommendations provided by the staff during a pre-application meeting shall not be considered binding upon the applicant or the city.

**Sec. 17-10. Application submittal and completeness determination.**

This section applies to any application that is subject to this article.

- (1) The applicant shall submit to the administrator all the information required in the application packet, along with any information identified in any pre-application meeting and all required information stated elsewhere in this article for the type of application.
  - a. No application is complete unless all the information required by this article, and any application materials required by the administrator are included, and all required application fees are paid. An application is not considered filed until it is complete. The administrator may allow the applicant to submit any required information later in the review process in order to complete final action on the application.
  - b. The applicant shall file an application in advance of any required public hearing or public meeting where the application is considered. The administrator may establish a schedule for filing and reviewing any application that requires action by the Planning and Zoning Commission or other city board. The schedule shall provide adequate time for review, notice and/or publication consistent with the applicable statutes and this article. Completed applications shall be filed according to any published schedule.
- (2) The administrator shall make a determination of application completeness within ten (10) business days of application filing. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this article.
  - a. An application will be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the application packet, this article, by the administrator, and is accompanied by the applicable fee.
  - b. If the application is determined to be incomplete, the administrator shall provide notice to the applicant that includes an explanation of the application deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a new application.
  - c. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed void and a new application must be submitted together with payment of applicable development review fees.
  - d. Whenever this article establishes a time period for processing an application, the time period does not begin until the administrator has reviewed the application for completeness and, if necessary, the applicant has corrected all deficiencies in the application and all applicable fees have been paid. The date the plat application is determined to be complete shall constitute the official filing date of

the plat from which the statutory period requiring formal approval or disapproval of the plat shall commence.

**Sec. 17-11. Application review.**

- (a) Following a determination that an application is complete; the administrator shall circulate the application to staff and appropriate city departments and other entities for review.
- (b) In addition to staff, the administrator may also refer applications to other boards, commissions, government agencies, and nongovernmental agencies not referenced in this article.
- (c) The administrator may request a meeting with the applicant to discuss the application and any written comments. Based on the written comments, the applicant shall have an opportunity to revise the application prior to further processing. Additional submittals and reviews may be subject to additional fees as determined by the administrator.
- (d) No plat shall be considered by the decision-making authority, as applicable, until it has been determined that the submittal is complete and in conformance with the requirements of this article.
- (e) For plats, action shall be taken by the Planning and Zoning Commission or administrator in certain instances within thirty (30) days of the official filing date unless a waiver is signed by the applicant, as applicable.
- (f) A plat is considered approved if the approving body fails to act on a plat within the prescribed period. Provided however, the applicant may request a deferral of action on the subdivision application, thereby waiving the thirty (30) day time period for action by the approving body, provided said request is submitted in writing.

(Ord. No. 2020-O-058 , § 1, 7-13-20)

**Sec. 17-12. Procedure for conditional approval of preliminary plat.**

- (a) The purpose of a preliminary plat shall be to determine the general layout of the subdivision, the adequacy of public facilities, and the overall compliance of the subdivision with applicable requirements of the city Code of Ordinances. Preliminary plans shall be approved prior to any land subdivision and commencement of any new development or construction project, except under the following conditions:
  - (1) A preliminary plat is not required when a minor plat is submitted; or
  - (2) A preliminary plat is not required when a final plat is submitted along with construction plans and a developer's agreement and/or appropriate surety.
- (b) Four (4) paper copies and one (1) PDF copy of the preliminary plat and supplementary materials specified shall be submitted to the department of development services with written application for conditional approval along with the plat application fee. The Planning and Zoning Commission shall act on the plat within thirty (30) days of being declared complete for consideration by the administrator.
- (c) Supplementary materials referred to above means preliminary plans for water, sewer, drainage, and paving. Other plans may be required as deemed necessary by the administrator. Four (4) paper copies and one (1) PDF copy of the supplementary materials shall be submitted.
- (d) Items required on the plat. The preliminary plat shall be drawn to scale no smaller than one hundred (100) feet to one (1) inch and show the following:
  - (1) Boundary lines, bearings, and distance to locate the exact area proposed for the subdivision.
  - (2) The name and location of all adjoining subdivisions shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to accurately show the existing streets, alleys, and other features that may influence the layout and development of the proposed subdivision. Adjacent unplatted land shall show property lines and owner of record.
  - (3) The locations, dimensions, description, name and purpose of all existing or proposed streets, alleys, reservations, easements, and rights-of-way. Proposed street names shall be included.
  - (4) The location of all existing property lines, buildings, utility lines, sewer and water mains, gas mains, easements, culverts, or other existing structures or features within the area proposed for subdivision. Pipe sizes shall be included with all applicable utility lines identified.
  - (5) The layout, numbers, setback lines, and dimensions of proposed blocks and lots and proposed use of the same. All lots, plots, or building sites in any original subdivision shall be numbered consecutively from one (1) to the total number of lots in the block. Block numbers may be used to identify large tracts expected to be resubdivided.
  - (6) Topographic data on a contour base with all elevations referenced to the Flood Insurance Rate Map (FIRM). The contours shall be shown at intervals of two (2) feet.
  - (7) The proposed name of the subdivision, the name and address of the owner with sufficient data to show ownership, and the name of the surveyor preparing the preliminary plat.
  - (8) The tract designation according to the real estate records of the office of the Henderson County Clerk.
  - (9) Sites, if any, to be reserved or dedicated for parks, playgrounds, or other public uses, together with the purpose of conditions or limitation of such reservations, if any.
  - (10) Scale, north arrow, date, and other pertinent data.
  - (11) Vicinity map.
  - (12) Planning and Zoning Commission certificate of approval, to be placed on the plat:

Conditionally approved on this \_\_\_\_\_ day of \_\_\_\_, 20\_\_\_\_, by the Planning and Zoning Commission of the City of Athens, Texas.

\_\_\_\_\_  
Chairperson

Secretary

- (13) The following notice shall be included on the face of each preliminary plat: "Preliminary plat - for inspection purposes only, and in no way official or approved for record purposes."
- (e) Application review.
- (1) City staff shall review the preliminary plat and other material submitted for conformity thereof to these regulations and shall make recommendations for negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made. These recommendations shall be made in writing.
  - (2) Utility companies shall review all preliminary plats and provide appropriate input to ensure that utility improvements will not hinder development. This input may require the submission of utility construction plans.
- (f) Following the review of the preliminary plat and other material submitted for conformity thereof to these regulations, and negotiations with the subdivider on changes deemed advisable, the Planning and Zoning Commission shall act thereon as submitted, or modified, and if approved, shall express its conditional approval and state in writing the conditions of such approval. If not approved, the Planning and Zoning Commission shall express its disapproval and reasons, therefore, in writing. Written conditional approvals and denials shall state the basis for the decision with references to the applicable state law or ordinance. The applicant may appeal a Planning and Zoning Commission decision to deny or conditionally approve a preliminary plat to the City Council.
- (g) The following criteria shall be used by the Planning and Zoning Commission and the City Council, if appealed, to determine whether the application for a preliminary plat shall be approved, approved with conditions, or denied:
- (1) The preliminary plat is consistent with all zoning requirements for the property, including any applicable planned development district standards, and with any approved conditions as applicable.
  - (2) The proposed provision and configuration of public improvements including, but not limited to, roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, easements, and rights-of-way are adequate to serve the development, meet applicable standards of this article, and conform to the city's adopted master plan for those facilities.
  - (3) The preliminary plat is designed in accordance with the city's interlocal agreements with Henderson County if the proposed development is located in whole or in part of the extraterritorial jurisdiction of the city.
  - (4) The preliminary plat has been duly approved by all required city staff.
  - (5) The preliminary plat conforms to the design requirements and construction standards as set forth in this article and the infrastructure design standards.
  - (6) The proposed development does not endanger the public health, safety, or welfare.
- (h) Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat. The final plat will be submitted for approval of the Planning and Zoning Commission, and for recording upon fulfillment of the requirements of these regulations and the conditions of the conditional approval, if any.
- (i) The following amendments may be made to a preliminary plat following approval:
- (1) Minor amendments—Minor amendments to the design of the development subject to an approved preliminary plat may be incorporated in an application for approval of a final plat without the necessity of filing a new application for re-approval of a preliminary plat. Minor amendments may only include minor adjustments in street or alley alignments, lengths and paving details, and minor adjustments to lot lines that do not result in the creation of additional lots or any nonconforming lots, and provided that such amendments are consistent with prior approved applications.

- (2) Major amendments—All other proposed changes to an approved preliminary plat shall be deemed major amendments that require submittal and approval of a new application of a preliminary plat before approval of construction plans and/or a final plat.
- (3) The administrator shall make a determination of whether proposed amendments are deemed to be minor or major.
- (j) Recording. A preliminary plat is not recorded. The administrator shall maintain the approved preliminary plat in accordance with state law and city records retention policies.

**Sec. 17-13. Procedure for approval of a final plat.**

- (a) The purpose of a final plat is to ensure that the proposed development of the land is consistent with all standards of the City of Athens the Code of Ordinances pertaining to the adequacy of public facilities, that public improvements to serve the development have been installed and accepted by the city or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the final plat to be recorded.
- (b) Should the property have a prior approved preliminary plat, the final plat shall conform substantially to the preliminary plat, and if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which is proposed to be developed at the time, provided, however, that such portion conforms to all requirements of these regulations.
- (c) Four (4) paper copies and one (1) PDF copy of the final plat, along with supplementary materials required for approval, shall be prepared and submitted to the department of development services along with the plat application fee. The Planning and Zoning Commission shall act on the plat within thirty (30) days of being declared complete for consideration by the administrator.
- (d) Supplementary materials referred to above means complete construction plans for streets, drainage, water and sewer improvements. Four (4) paper copies and one (1) PDF copy of the supplementary materials shall be submitted.
- (e) *Items required on the plat.* The final plat shall be drawn to scale no smaller than one hundred (100) feet to one (1) inch and show the following:
  - (1) Primary control points, approved by the administrator, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, new block numbers, and similar data on the plat shall be referred. All subdivisions shall reference two (2) corners to state plane coordinates.
  - (2) Tract boundary lines to locate the exact area proposed for subdivision, right-of-way lines of streets, easements, and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions, bearings, or deflection angles, and radii, arcs, and central angles of all curves.
  - (3) Dimensions of all lots and building tracts.
  - (4) Name, right-of-way width, and type of each street or other right-of-way.
  - (5) Location, dimensions including metes and bounds where practical, and purpose of any easement.
  - (6) Number to identify each lot or site.
  - (7) Purpose for which sites, other than residential lots, are dedicated or reserved.
  - (8) Minimum building set back lines. If omitted, set back lines will be determined by the most recent version of the zoning ordinance.
  - (9) Location and description of monuments.
  - (10) Reference to recorded subdivision plats of adjoining platted land by record name. Adjacent unplatted land shall show property lines and owners of record.
  - (11) Scale, north arrow, and date.
  - (12) Vicinity map.
  - (13) Owner's certificate and dedication statement.

- (14) Protective covenants, if any.
- (15) Surveyor's certificate, to be placed on the plat:

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the City of Athens, Texas.

- (16) Planning and Zoning Commission certificate of approval, to be placed on the plat:

Recommended for approval on this \_\_\_\_\_ day of \_\_\_, 20\_\_\_, by the Planning and Zoning Commission of the City of Athens, Texas.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary

(f) *Application review.*

- (1) City staff shall review the final plat and other material submitted for conformity thereof to these regulations and shall make recommendations for negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made. These recommendations shall be made in writing.
- (2) Utility companies shall review all final plats and provide appropriate input to ensure that utility improvements will not hinder development. This input may require the submission of utility construction plans.

(g) *Planning and Zoning Commission approval.* The following criteria shall be used by the Planning and Zoning Commission to determine whether the application for a final plat shall be approved, approved with conditions, or denied. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or ordinance.

- (1) The final plat conforms to all criteria for approval of a preliminary plat;
- (2) The construction plans conform to design requirements and construction standards as set forth in this article and the infrastructure design guidelines;
- (3) A developer's agreement or surety for installation of public improvements has been prepared and executed by the property owner in conformity with ARTICLE VI – DESIGN STANDARDS;
- (4) The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this article.
- (5) The final plat meets all applicable county standards to be applied under an interlocal agreement between the city and the county under V.T.C.A., Local Government Code ch. 242, where the proposed development is located in whole or part of the extraterritorial jurisdiction of the city.

(h) *Recording.*

- (1) All plats submitted for recordation shall be sealed by a registered professional land surveyor in the State of Texas.
- (2) All plats to be recorded shall conform to all conditions of approval and shall be submitted to the administrator or his or her designee.
- (3) Plats shall be recorded in the Plat Records of Henderson County by the city and a copy delivered to the applicant. They shall include:
  - a. All stipulations of approval;
  - b. The required public improvements have been completed and accepted by the city or appropriate surety has been provided in accordance with ARTICLE VI – DESIGN STANDARDS;



- c. All necessary fiscal agreements approved by the city and fully executed by all parties; and
  - d. Payment of all applicable fees, assessments, and both current and delinquent taxes.
- (i) *Effect of approval.* The approval of a final plat supersedes any prior approved preliminary plat for the same land; authorizes the applicant to install any improvements in public rights-of-way in conformance with approved construction plans and under and developer's agreement, if applicable; and authorizes the applicant to seek construction release and/or issuance of a building permit.
  - (j) *Revisions following recordation.* Revisions may only be processed and approved as a replat or amending plat, as applicable.

**Sec. 17-14. Procedure for approval of a minor plat.**

- (a) The purpose of a minor plat is to simplify divisions of land under certain circumstances outlined in state law. An application for a minor plat may only be filed when all the following circumstances apply:
  - (1) The proposed division results in four (4) or fewer lots;
  - (2) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the standards of this article;
  - (3) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the development; and
  - (4) If minor revisions are required for a previously platted and recorded lot, a minor plat may be utilized in lieu of a replat if allowed by state law.
- (b) Four (4) paper copies and one (1) PDF copy of the minor plat shall be prepared and submitted to the Department of Development Services along with the plat application fee. The administrator or Planning and Zoning Commission shall act on the plat within thirty (30) days of being declared complete for consideration by the administrator.
- (c) *Items required on the plat.* The items required shall be the same as for the final plat with the exception that the certificate of approval below shall be used in place of the Planning and Zoning Commission certificate approval:
 

Administrator certificate of approval, to be placed on the plat:

Approved on this \_\_\_\_\_ day of \_\_\_, 20\_\_\_, by the office of the City Manager and the Department of Development Services of the City of Athens, Texas.

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Development Services

- (d) *Application review.* The review process shall be the same as for a final plat.
- (e) *Administrative decision.* All minor plats that meet the requirements of this ordinance may be approved by the administrator. Should the application not meet the requirements of this ordinance, approval may only be by the Planning and Zoning Commission which has the final authority to approve, approve with conditions, or deny any minor plat. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or reference.
- (f) *Review and approval criteria.* Approval criteria for minor plats shall be in accordance with general criteria in this ordinance and the following criteria for minor plats:
  - (1) All lots to be created by the plat are already adequately served by a public street and by all required utilities and services and by alleys, if applicable.
  - (2) The ownership, maintenance, and allowed uses of all designated easements have been stated on the minor plat.

- (3) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the development including any dedication statements and signatures for right-of-way dedications.
- (g) *Recording.*
  - (1) All plats submitted for recordation shall be sealed by a registered professional land surveyor in the State of Texas.
  - (2) All plats to be recorded shall conform to all conditions of approval and shall be submitted to the administrator.
  - (3) Plats shall be recorded in the Plat Records of Henderson County by the city and a copy delivered to the applicant. They shall include:
    - a. All stipulations of approval;
    - b. Payment of all applicable fees, assessments, and both current and delinquent taxes.
- (h) *Revisions following recordation.* Revisions may only be processed and approved as a replat or amending plat, as applicable.

**Sec. 17-15. Procedure for approval of a replat.**

- (a) A replat of a subdivision or part thereof may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
  - (1) Is signed and acknowledged by the owners of the property being replatted;
  - (2) Is approved after a public hearing; and
  - (3) Does not attempt to amend or remove any covenants or restrictions.
- (b) Four (4) paper copies and one (1) PDF copy of the replat plat shall be prepared and submitted to the department of development services along with the plat application fee. The Planning and Zoning Commission shall act on the plat within thirty (30) days of being declared complete for consideration by the administrator.
- (c) *Items required on the plat.* The items required shall be the same as for the final plat. In addition, the following minimum certification shall be included: "This plat does not alter or remove existing deed restrictions or covenants, if any, on this property."
- (d) *Application review.* The review process shall be the same as for a final plat.
- (e) *Public notice.* Notice shall be provided for replats per V.T.C.A., Local Government Code §§ 212.014 and 212.015, as amended.
  - (1) Replats requiring public notice:
    - a. Any part of the area to be replatted was limited by an interim or permanent zoning classification to not more than two (2) residential units per lot at any time during the preceding five (5) years.
    - b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
    - c. Exception. Compliance with this subsection is not required for approval of a replat if the area to be replatted was designated or reserved for a use other than single-family or duplex by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.
  - (2) Notice of a public hearing shall be given before the fifteenth (15<sup>th</sup>) day before the date of the hearing by:
    - a. Publication in the official newspaper of the city
    - b. By written notice to owners of lots that are in the original subdivision and that are within two hundred (200) feet of the lots to be replatted as indicated on the most recently certified tax roll.
  - (3) If the replat requires a variance and is protested in accordance with state law, the replat must receive the affirmative vote of at least three-fourths ( $\frac{3}{4}$ ) of the Planning and Zoning Commission members present in

order to be approved. For a legal protest, written instruments signed by the owners of at least twenty (20) percent of the area of the lots or land immediately adjoining the area being replatted and extending two hundred (200) feet from that area, but within the original subdivision, must be filed with the Planning and Zoning Commission prior to the close of the public hearing.

- (f) *Planning and Zoning Commission approval.* The Planning and Zoning Commission shall have final approval of the plat as submitted or modified. The following criteria shall be used by the Planning and Zoning Commission to determine whether the application for a replat shall be approved, approved with conditions, or denied. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or ordinance.
  - (1) The same criteria as required for a final plat
  - (2) The lots shall conform in width, depth, and area to the predominant pattern established by the existing lots located on the same block, having due regard to the character of the area.
- (g) Recording shall be the same as for a minor plat.
- (h) *Revisions following recordation.* Revisions may only be processed and approved as a replat or amending plat, as applicable.

**Sec. 17-16. Procedure for approval of an amending plat.**

- (a) An amending plat shall control over the preceding plat without vacation of that plat, if the amending plat is signed by all applicants and is solely for one (1) or more of the following purposes below and as outlined in state law:
  - (1) To correct an error in a course or distance shown on the preceding plat;
  - (2) To add a course or distance that was omitted on the preceding plat;
  - (3) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
  - (4) 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;
  - (5) 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;
  - (6) To correct an error in courses and distances of lot lines between two (2) adjacent lots if:
    - a. Both lot owners join in the application for amending the plat;
    - b. Neither lot is abolished;
    - c. The amendment does not attempt to remove recorded covenants or restrictions; and
    - d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
  - (7) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
  - (8) To relocate one (1) or more lot lines between one (1) or more adjacent lots if:
    - a. The owners of all those lots join in the application for amending the plat;
    - b. The amendment does not attempt to remove recorded covenants or restrictions; and
    - c. The amendment does not increase the number of lots;
  - (9) 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:
    - a. The changes do not affect applicable zoning and other regulations of the municipality;

- b. The changes do not attempt to amend or remove any covenants or restrictions; and
  - c. The area covered by the changes is located in an area that the city council had approved, after a public hearing, as a residential improvement area; or
- (10) To replat one (1) or more lots fronting on an existing street if:
- a. The owners of all those lots join in on the application for amending the plat;
  - b. The amendment does not attempt to remove recorded covenants or restrictions;
  - c. The amendment does not increase the number of lots; and
  - d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (b) Four (4) paper copies and one (1) PDF copy of the amending plat shall be prepared and submitted to the department of development services along with the plat application fee. The administrator shall act on the plat within thirty (30) days of being declared complete for consideration.
- (c) *Items required on the plat.* The items required shall be the same as for the minor plat.
- (d) *Application review.* The review process shall be the same as for a final plat.
- (e) *Administrative decision.* All amending plats that meet the requirements of this ordinance may be approved by the administrator. Should the application not meet the requirements of this ordinance, approval may only be by the Planning and Zoning Commission which has the final authority to approve, approve with conditions, or deny any amending plat. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or reference. Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
- (f) *Review and approval criteria.* Approval criteria for amending plats shall be in accordance with general criteria in this ordinance and the same criteria for final plats.
- (g) Recording shall be the same as for a minor plat.
- (h) *Revisions following recordation.* Revisions may only be processed and approved as a replat or amending plat, as applicable.

**Sec. 17-17. Procedure for approval of a plat vacation.**

- (a) The purpose of a plat vacation is to provide an expeditious means of vacating a recorded plat in its entirety, consistent with state law.
- (b) The Planning and Zoning Commission shall act on the plat vacation request within thirty (30) days of being declared complete for consideration by the administrator.
- (c) *Application review.* The review process shall be the same as for the original plat.
- (d) *Planning and Zoning Commission approval.* The Planning and Zoning Commission shall act on and shall have final approval of the plat vacation as submitted or modified. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or ordinance. The approval criteria shall be in accordance with the criteria for the original plat and in accordance with V.T.C.A., Local Government Code § 212.013, as amended.
- (e) *Recording.*
  - (1) The vacating instrument is recorded in the manner prescribed for the original plat.
  - (2) The county clerk shall write legibly on the vacated plat the word "Vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.
  - (3) Replacement right-of-way or easement may be required to be dedicated by separate instrument as condition of approval.

Section 2. Should any clause, phrase, sentence section of this Ordinance be deemed invalid or unconstitutional by a court of competent jurisdiction, said finding shall not affect the remaining clauses, phrases, sentences or sections of this Ordinance.

Section 3. Any ordinance, resolution or order previously passed and/or adopted by the City Council, or any part thereof, if found to be in conflict with the provisions of this Ordinance, shall be resolved in favor of the terms and conditions of this Ordinance, and any prior conflicting ordinance, resolution or order or any part thereof, is hereby repealed to the extent of said conflict.

Section 4. This ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Athens, Texas.

**PASSED, APPROVED and ADOPTED** this the **28th<sup>th</sup>** day of **June 2021** at a regular meeting of the City Council of the City of Athens, Texas, with the following record vote:

Toni Clay, Mayor	Aye
Aaron Smith, Councilmember	Aye
SyTanna Freeman, Councilmember	Aye
Robert Gross, Councilmember	Aye

Voted in favor of the motion	4
Voted against the motion	0
Motion carried	4-0

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Toni Clay, Mayor

ATTEST:

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Bonnie Hambrick, City Secretary