

City of Woodcreek Planning and Zoning Commission Meeting

August 21, 2019; 5:00 p.m.

NOTICE/AGENDA

This notice is posted pursuant to the Texas Open Meetings Act (Vernon's Texas Codes Ann. Gov. Code Chapter 551). The Woodcreek Planning and Zoning Commission will hold a Meeting on August 21, 2019, at 5:00 p.m. at Woodcreek City Hall, 41 Champions Circle, Woodcreek, Texas at which time the following items will be considered:

- 1. Call to Order**
- 2. Pledges**
- 3. Roll Call**
- 4. Public Hearing to consider an application from Peter and Coleen Parchesky, 2017 East Meadow Lane, Wimberley, TX 78676 to Replat Lot 49, Cypress Creek Acres, establishing Lots 49-A and 49-B within the City of Woodcreek's Extraterritorial Jurisdiction. This property is further identified by the Hays County Central Appraisal District by identification number R25613.**
- 5. Discussion and Take Possible Action to consider an application from Peter and Coleen Parchesky, 2017 East Meadow Lane, Wimberley, TX 78676 to Replat Lot 49, Cypress Creek Acres, establishing Lots 49-A and 49-B within the City of Woodcreek's Extraterritorial Jurisdiction. This property is further identified by the Hays County Central Appraisal District by identification number R25613.**
- 6. Discuss and/or take appropriate action on Chair's request for reconsideration of Commission's action to table item 8 from August 13, 2019 meeting on the Proposal to Re-Zone Lot 18, Woodcreek, Section 4-A, 155 Champions Circle, Woodcreek, Texas from SF- (Single Family Residential) with a Special Use Permit (Commercial Use for Day Rental and Overnight Lodging) to SF-1 (Single Family Residential) and Revoke the Special Use Permit (Commercial Use for Day Rental and Overnight Lodging). This Property is Further Identified by Hays Central Appraisal District Property ID R48940.**
- 7. Discussion and/or take appropriate action on the Proposal to Re-Zone Lot 18, Woodcreek, Section 4-A, 155 Champions Circle, Woodcreek, Texas from SF-1 (Single Family Residential) with a Special Use Permit (Commercial Use for Day Rental and Overnight Lodging) to SF-1 (Single Family Residential) and Revoke the Special Use Permit (Commercial Use for Day Rental and Overnight Lodging) tabled from the August 13, 2019 meeting. This Property is Further Identified by Hays Central Appraisal District Property ID R48940.**
- 8. Discussion and Take Appropriate Action on an Area of the City of Woodcreek Adjacent to Brookmeadow Drive that is Currently Zoned Single Family 6 (SF-6)**
- 9. Discuss and Take Appropriate on Possible Amendments to Chapters 156.135 – 156.999 as it Relates to Administration and Enforcement of the City of Woodcreek Zoning Code**
- 10. Adjourn**

Executive sessions held during this meeting will generally take place in the City Manager's office, at the discretion of the Planning & Zoning Commission.

The Planning & Zoning Commission may retire to executive session any time between the meeting's opening and adjournment for the purpose of consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code; discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code; deliberation regarding real property pursuant to Chapter 551.072 of the Texas Government Code; deliberation regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code; and/or deliberation regarding the deployment, or specific occasions for implementation of security personnel or devices pursuant to Chapter 551.076 of the Texas Government Code. Action, if any, will be taken in open session.

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

Attendance By Other Elected or Appointed Officials:

It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

The City of Woodcreek is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call the City Secretary's Office at 512-847-9390 for information. Hearing-impaired or speech-disabled persons equipped with telecommunications devices for the deaf may call 7-1-1 or may utilize the statewide Relay Texas program at 1-800-735-2988.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

I certify that the above notice was posted on the 16th day of August, 2019 at 2:01 PM.

By: B = B Lewis
Brenton B. Lewis, City Manager



**SUBDIVISION PLAT SUBMITTAL FORM
SUPPORTING INFORMATION
Hays County, Texas**

To be included with Plat Submittal
All **APPLICABLE** entries must be completed

NOTICE TO APPLICANT: *It is strongly recommended that you meet with County planning, subdivision, and environmental staff PRIOR to beginning the process to subdivide and develop property.*

<i>For Office Use Only</i>	
Tracking Number:	_____
Date App. Received:	_____
Fee: \$	_____
Precinct # in which located:	_____
Lot Size Designation:	_____
A (surface water):	_____
B (community):	_____
C (private):	_____

TYPE OF APPLICATION:

- Manufactured Home Rental Community
- Replat/Revision
- Condominium Development

Waiver of Preliminary Plan (see page 6)
Request for administrative approval

PROPOSED NAME OF SUBDIVISION: Cypress Creek Acres, Lot 49 Replat

OWNER/APPLICANT/CONTACT INFORMATION:

Name in which the Development Authorization is requested to be issued: _____
 Property Owner's Legal Name: Peter and Coleen Parchesky
 Property Owner's Email Address: pparch@gmail.com Phone: (512) 808-7628
 Property Owner's HCAD Owner ID Number: R25613

Applicant's Legal Name: J Thompson Professional Consulting
 Applicant's Email Address: jthompsonconsultingds@gmail.com Phone: (512) 568-2184
 Designated Contact's Name: Jon Thompson
 Designated Contact's Email Address: jthompsonconsultingds@gmail.com Phone: (512) 568-2184

BUSINESS ENTITIES (FOR SERVICE OF PROCESS):

Name of registered agent: _____
 Address of registered agent: _____

CONSULTANTS:

List all professionals involved in the preparation of this Application or any of the supplemental information provided herewith:

	Name	Email Address	Phone
Licensed Professional Engineer:	_____	_____	_____
Registered Professional Land Surveyor:	<u>Kyle Smith, RPLS</u>	<u>ks.byrn@gmail.com</u>	<u>(512) 396-2270</u>
Registered Sanitarian:	<u>Andy Grubbs, RS</u>	<u>grubbsi@centurytel.net</u>	<u>(512) 644-5361</u>
Geoscientists:	_____	_____	_____
Attorney:	_____	_____	_____

PROPERTY INFORMATION:

4A-C

PROPOSED NAME OF SUBDIVISION: Cypress Creek Acres, Lot 49 Replat

11 street address for the main entrance, if established: 207 E. Meadow Lane, Wimberley, Texas

Current legal description: Cypress Creek Acres, Lot 49

HCAD Property ID Number: R25613

Hays County Precinct in which the subject property is located: 3

Total current land area: 5.0

Located in city ETJ: No City Name: Woodcreek

Is the development over the Edwards Aquifer Recharge Zone? Yes No

Is the development over the Contributing Zone of the Edwards Aquifer? Yes No

List all political subdivisions in which the subject property is located (see tax certificate):

School District(s): Wimberley ISD

Emergency Services District(s): ESD # 3 & 7

Groundwater District(s): Hays Trinity Groundwater Conservation District

Other: _____

Is the Hays County Habitat Conservation Compliance Form completed? Yes No

Per the Hays County Habitat Conservation plan, does the subject property contain potential habitat for the golden-checked warbler or black-capped vireo? Yes No No

Total current acreage of property proposed for development: 5

Total acreage to be subdivided into lots: 5

Total number of lots: 2 Average size of lots: 2.5

NUMBER OF LOTS: Greater than 10 acres: 0 Larger than 5 but less than 10 acres: 0

Between 2 and 5 acres: 2 Between 1 and 2 acres: 0

Less than one acre: 0

At full buildout, what is the maximum number of lots for all phases: 2

Intended use of the lots (in detail): Residential

If the Application is for a replat/revision, the reason for the proposed replat/revision: To divide the lot into two separately platted lots.

FRONTAGE ON EXISTING ROADS:

County Road Name: East Meadows Lane Linear footage of frontage: 355

County Road Name: _____ Linear footage of frontage: _____

County Road Name: _____ Linear footage of frontage: _____

County Road Name: _____ Linear footage of frontage: _____

PROPOSED NAME OF SUBDIVISION: Cypress Creek Acres, Lot 49 Replat

State Road Name: _____ Linear footage of frontage: _____
 State Road Name: _____ Linear footage of frontage: _____
 State Road Name: _____ Linear footage of frontage: _____
 State Road Name: _____ Linear footage of frontage: _____
 Private Road Name: _____ Linear footage of frontage: _____
 Private Road Name: _____ Linear footage of frontage: _____
 Private Road Name: _____ Linear footage of frontage: _____
 Private Road Name: _____ Linear footage of frontage: _____

List all roads by which the property can be accessed: East Meadows Lane

PROPOSED NEW ROADS IN THE DEVELOPMENT:

Linear footage of Public Roads: N/A
Linear footage of Private Roads: N/A

(Proposed road names must be shown on the Preliminary Plat)

List all contiguous property owners (including those which share a common boundary as well as those only separated by a roadway, utility corridor or aquatic feature. Properties that are separated by a roadway, utility corridor or aquatic feature within two hundred feet are considered Contiguous Properties.):

R25603, R25598, R25612, R25615, R113274, R25578,

UTILITY INFORMATION:

SOURCE OF WATER:

Individual Wells Rainwater Collection System(s)

State Permitted System: From Groundwater From Surface Water Provider: _____

ANTICIPATED WASTEWATER SYSTEM:

Conventional On-Site Sewage Facilities Advanced On-Site Sewage Facilities System

Public Sewer Provider: _____

PRE-SUBMITTAL CHECKLIST

Current Tax Certificate(s) from the Hays Central Appraisal District – Showing all taxes and fees due on the subject property have been paid prior to submission of the Application

All applicable review fees

Preliminary Plan - 6 eighteen inch (18") by twenty-four inch (24") copies (Hays County may require up to 8 additional copies of the Preliminary Plan)

Final Plat – 6 eighteen inch (18") by twenty-four inch (24") copies (Hays County may require up to 14 additional copies of the Final Plat)

Final Plat – 1 digital data file of the signed/sealed final drawings in accordance with the Hays County Digital Data Submittal Standards

A copy of the deed or deeds documenting current ownership of the Subject Property.

PROPOSED NAME OF SUBDIVISION: _____

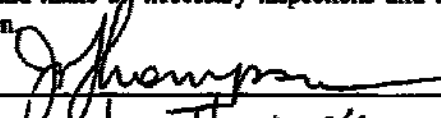
- A Water and Wastewater Service Plan, if required by Chapter 715 of the Hays County Development Regulations
- Water Service Utility Provider Letter (if utilizing an existing Public Water Supply)
- A roadway design report prepared in accordance with Chapter 721, unless exempted pursuant to Chapter 721, Subchapter 5
- Completed Utilities checklist (see page 7)
- Proof of notification of political subdivisions and contiguous property owners
- Facilities Planning Report as required by 30 TAC Chapter 285 for property that will use on-site sewage facilities for wastewater disposal (if applicable)
- All other documents or reports required pursuant to these Regulations and any associated bonds or letters of credit.
- Hays County ESA Acknowledgement Form
- Other – List any other supplemental information submitted with this Application:

ADDITIONAL INFORMATION REQUIRED FOR REPLATS/REVISIONS ONLY:

- A copy of all existing recorded plats affected by the proposed revision.
- Six (6) eighteen inch (18") by twenty four inch (24") hard copies of the proposed revised plat.

OWNER'S/APPLICANT'S CERTIFICATION:

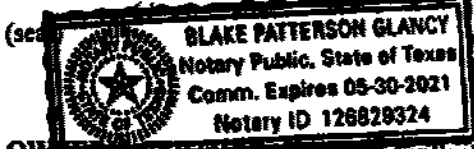
I hereby certify that I have carefully read the complete application and know the same is true and correct. I hereby agree to comply with all provisions of local, State, and Federal Laws whether they are herein specified or not. As the Owner of the above property or a duly authorized Applicant, I hereby grant permission to the County to enter the premises and make all necessary inspections and to take all other actions necessary to review and act upon this Application.

Signed:  Address: PO Box 172, DS, TX 78620
Print Name: Jon Thompson Phone Number: (512) 568-2184
Date: 02/27/19 Fax Number: _____

PROPOSED NAME OF SUBDIVISION: _____

COUNTY OF HAYS §

Subscribed and sworn to before me this 27 day of February, 2019.



Notary Public, State of Texas
My Commission expires: 5/30/21

OW _____ (If applicable):

I hereby certify that I have given permission for the above Applicant to submit this Application and to represent me in all matters affecting said Application.

Signed: [Signature]

Address: 207 E Meadow Ln, Winberry, TX 78671

Print Name: Peter Paschsky

Phone Number: 512-806-7828

Date: 2-27-2019

Fax Number: _____

STATE OF TEXAS §
COUNTY OF HAYS §

Subscribed and sworn to before me this 27 day of February, 2019.



Notary Public, State of Texas
My Commission expires: 5/30/21

PROPOSED NAME OF SUBDIVISION: _____

NOTE TO APPLICANT:

Prior to submission of any application materials, you must meet with the Commissioner for the Precinct in which the proposed subdivision is located. Email communication with the Precinct Commissioner may be sufficient in some cases. A copy of the email may be submitted in lieu of this signed document.

Precinct Number: _____

Date of meeting: _____

Signature of Commissioner: _____

Commissioner's

Notes

:

REPLAT/REVISION: The purpose of the Application is to adjust lot lines or consolidate lots. Waiver of the filing of a Preliminary Plan is hereby approved and the Applicant may submit a Final Plat Application only.

Signature of Commissioner: _____

PROPOSED NAME OF SUBDIVISION: _____

UTILITY CHECKLIST:

Prior to submitting this Application to the County, the Applicant is required to take a copy of the preliminary plan to each utility for its review and comment. All comments must be corrected prior to submission of the Application and preliminary plan to the County. If the requirement for a preliminary plan has been waived, the Applicant must follow the same procedure for the final plat.

NOTE TO UTILITY COMPANIES: Please sign this Checklist ONLY if all comments submitted by you to the Applicant have been addressed in full.

ELECTRIC UTILITY: Company Name: PEC
Date of Final Approval: _____
Signature: _____ Title: _____

TELEPHONE UTILITY: Company Name: Frontier
Date of Final Approval: _____
Signature: _____ Title: _____

WATER UTILITY (If Applicable): Company Name: Wimberley Water
Date of Final Approval: _____
Signature: _____ Title: _____

SEWER UTILITY (If Applicable): Company Name: _____
Date of Final Approval: _____
Signature: _____ Title: _____

TEXAS DEPARTMENT OF TRANSPORTATION (If frontage on State-maintained roadway)
Date of Final Approval: _____
Signature: _____ Title: _____



Hays County Development Services
P.O. Box 1006 San Marcos TX 78667-1006
2171 Yarrington Road San Marcos TX 78666
512-393-2150 / 512-493-1915 fax

Endangered Species Act Information Addendum and Certificate of Acknowledgment

1. Background

Hays County is home to several species listed as threatened or endangered under the Federal Endangered Species Act, 16 U.S.C. 1531, et seq. (ESA). The U.S. Fish and Wildlife Service (USFWS) has determined that certain land uses may cause "take" of listed species, as that term is defined by the ESA and relevant regulations found at 50 C.F.R. 17.3. Generally, take of listed species of wildlife is prohibited by the ESA, unless USFWS has issued authorization in the form of an incidental take permit (ITP) pursuant to ESA section 10 or a biological opinion and incidental take statement pursuant to ESA section 7. For a list of endangered and threatened species potentially present in Hays County, please visit USFWS' website at www.fws.gov/angered.

Hays County has received an ITP from USFWS that authorizes incidental take (take associated with otherwise lawful land use activities such as clearing trees for agriculture or development purposes) of the golden-cheeked warbler and black-capped vireo (Covered Species) so long as the County implements the terms and conditions of the ITP. A map depicting potential Covered Species habitat located in Hays County may be accessed at www.hayscountyhcp.com/maps.html. The County may allow individuals and entities to "participate" in the ITP and, thereby, receive incidental take authorization through the County's ITP. Relevant information regarding the participation process may be found at www.hayscountyhcp.com. For additional information on complying with the ESA, please visit www.fws.gov/angered or contact the USFWS Ecological Services Austin Field Office at (512) 490-0057.

2. Applicant and Property Information

Applicant Contact Information:

Project Name: Cypress Creek Acres, Lot 49 Replat

Property Owner: Peter Parchesky Email and Phone: pparch@gmail.com (512) 808-7628

Project/Property Address, or nearest street intersection if address unavailable: 207 E. Meadow Lane, Wimberley, Texas

Contact Person Name (if different from Property Owner): Jon Thompson

Phone: (512) 568-2184 Email: jthompsonconsultingds@gmail.com

Relationship to Owner: Real Estate Development Consultant

Application Type (check one):

TexNew Subdivision Manufactured Home Rental Community

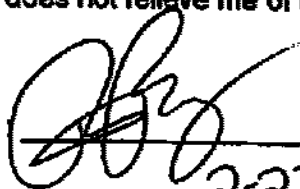
X Replat/Revision Condominium Development

Certificate of Acknowledgment

(a) I, Peter Pachosky, acknowledge receipt of the Hays County Endangered Species Act Information Addendum. I also acknowledge that in undertaking my land use activity, I am obligated to comply with all relevant federal, state, and local laws, including specifically the federal Endangered Species Act, 16 U.S.C. 1531 et seq.

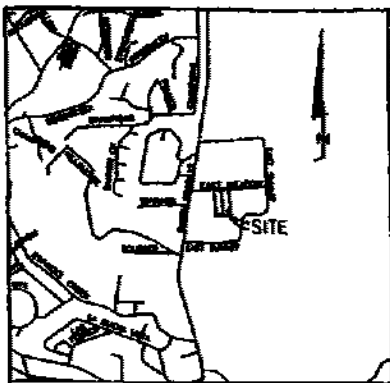
(b) I, Peter Pachosky, further acknowledge that receipt of a permit or approval from Hays County does not relieve me of the obligations set forth in paragraph (a) above.

Signed



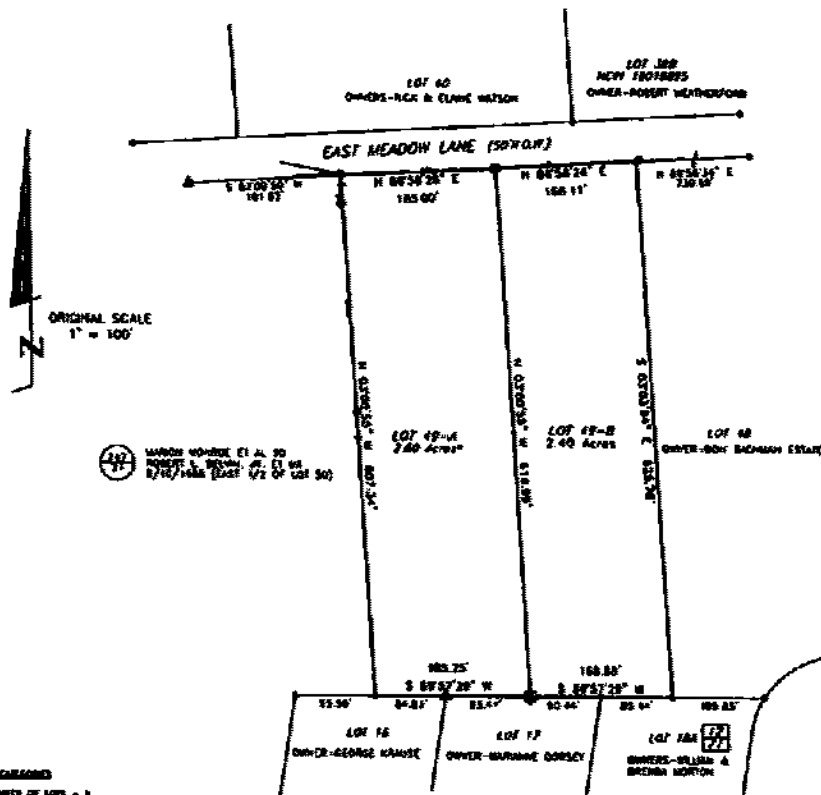
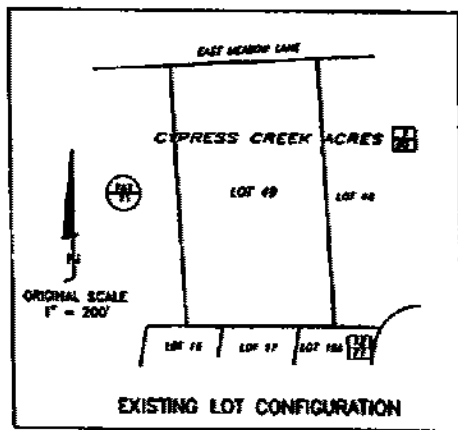
Date:

2-27-2019



VICINITY MAP - 1"=2000'

- NOTES**
- THIS COUNTY NEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
 - 1/2" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 1" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 4" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 6" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 8" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 10" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 12" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 14" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 16" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 18" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 20" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 22" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 24" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 26" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 28" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 30" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 32" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 34" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 36" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 38" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 40" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 42" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 44" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 46" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 48" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 50" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 52" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 54" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 56" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 58" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 60" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 62" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 64" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 66" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 68" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 70" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 72" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 74" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 76" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 78" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 80" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 82" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 84" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 86" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 88" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 90" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 92" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 94" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 96" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 98" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"
 - 100" IRON PIPE SET WITH PLUMBING CAP STAMPED "IRON SURVEY"



REPLAT

USE AND CARRIAGE

- NOTE: NUMBER OF LOTS = 1
- ACRES: 2.80 ACRES
- 1 LOTS LARGER THAN 10.0 ACRES
- 2 LOTS LARGER THAN 5.0 ACRES AND SMALLER THAN 10 ACRES
- 3 LOTS 2.00 ACRES OR LARGER UP TO 5.00 ACRES
- 4 LOTS LARGER THAN 1.00 ACRES AND SMALLER THAN 2.00 ACRES
- 5 LOTS SMALLER THAN 1.00 ACRES

NOTES:

- 1. SURVEYING - PROFESSIONAL SURVEYING
- 2. SURVEYING - SURVEYING
- 3. SURVEYING - SURVEYING

REPLAT PLAT NUMBER

IN ORDER TO PROTECT THAT USE OF RESOURCES AND PRESERVE THE CHARACTER OF PUBLIC RESOURCES, NO STRUCTURE CONSTRUCTED ON ANY LOT WITHIN THE SUBDIVISION SHALL BE CONSIDERED AS A PUBLIC UTILITY OR STRUCTURE UNLESS THE PROPERTY OWNER HAS BEEN ADVISED BY THE SUBDIVISION ENGINEER OF THIS COUNTY AND HAS THE PROPERTY OWNER'S WRITTEN APPROVAL OF THE SUBDIVISION ENGINEER'S PLAN IN CHAPTER 71 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS.

ALL OWNERS, WHEN REQUIRED, SHALL COMPLY WITH THE CURRENT HAYS COUNTY ORDINANCES FOR HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 71, SUBCHAPTER 8.2.

DATE SUBMITTED

UNLESS OTHERWISE SPECIFIED, THE SUBDIVISION IS SUBJECT TO THE REQUIREMENTS TO SUBMITTAL OF THESE REGULATIONS.

DATE: 2/16/2010
 OFFICE: 78477
 CREW: 78477
 PLAN NO: 27259-10-1

REPLAT NOTES

1. BEARING, DISTANCES AND ANGLES IS PRESENTED AS FROM RECORD INFORMATION.
2. ACCORDING TO SCALE FROM THE SURVEYOR'S FIELD BOOK, THE BEARING OF THE LINE FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.
3. THE BEARING FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.
4. THE BEARING FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.
5. THE BEARING FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.
6. THE BEARING FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.
7. THE BEARING FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.
8. THE BEARING FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.
9. THE BEARING FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.
10. THE BEARING FROM THE SURVEYOR'S FIELD BOOK IS 100.00°.

STATE OF TEXAS

COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name and signature are subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESSED my hand and seal of office this _____ day of _____, 2010.

STATE OF TEXAS

COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name and signature are subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

RIGHT PUBLIC IN THE FOR THE STATE OF TEXAS

STATE OF TEXAS

COUNTY OF HAYS

I, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name and signature are subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

STATE OF TEXAS

COUNTY OF HAYS

I, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name and signature are subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

I, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name and signature are subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESSED my hand and seal of office this _____ day of _____, 2010.

NO STRUCTURE IN THE SUBDIVISION SHALL BE OCCUPIED UNTIL APPROVED BY AN APPLICANT UNDER THESE REGULATIONS AND APPROVED BY THE SUBDIVISION ENGINEER OF THIS COUNTY.

NO STRUCTURE IN THE SUBDIVISION SHALL BE OCCUPIED UNTIL APPROVED BY A PUBLIC UTILITY SYSTEM OR BY AN IN-SITE WASTEWATER SYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY HAYS COUNTY DEVELOPMENT SERVICES.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THE SUBDIVISION MAY BE CONDUCTED UNTIL THE HAYS COUNTY DEVELOPMENT SERVICES HAS BEEN NOTIFIED.

WITNESSED my hand and seal of office this _____ day of _____, 2010.

WITNESSED my hand and seal of office this _____ day of _____, 2010.

THE REPLAT OF LOT 49, CYPRESS CREEK ACRES, HAS BEEN SUBMITTED TO THE CITY OF WOODBRIDGE, TEXAS AND IS HEREBY APPROVED.

I, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name and signature are subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESSED my hand and seal of office this _____ day of _____, 2010.

I, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name and signature are subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESSED my hand and seal of office this _____ day of _____, 2010.

I, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name and signature are subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.



RYAN & ASSOCIATES, INC.
 SURVEYING
 P.O. BOX 1433 BIRMINGHAM, TEXAS 76267
 PHONE 940-536-2100 FAX 940-536-2145
 FIDELITY 1001078000

REPLAT OF LOT 49, CYPRESS CREEK ACRES, HAYS COUNTY, TEXAS

March 11, 2019

To: Jon Thompson
Staudt Survey Inc.
16746 Fitzhugh Road Suite 102
Dripping springs, Texas 78620

Project: Cypress Creek Acres, Lot 49, recorded in Hays County Instrument Number 17035686 of the Hays County Official Public Records, replat of Lot 49, Cypress Creek Acres in accordance with the plat shown heron in Wimberley, Texas

In reference to the above-mentioned Development, and subject to applicable laws, franchises, regulations and tariffs, Frontier Communication Inc. will supply communication service at the Development if we receive the proper information, easements and payments needed such as:

1. One full set of development plans at no cost to Frontier.
2. Mailing addresses for each building when they become available to start to establish the 911 database.
3. It will be the developer's responsibility to provide Documentation granting all required rights-of-way and easements at no cost to Frontier as well as provide a suitable combination of conduit and trenching and/or riser conduit to accommodate our network communications cable within the confines of the complex.
4. Where applicable, payment in full of required advance construction payment based on estimated costs. For planning purposes, the average cost to provide new facilities is typically \$1,000-\$3,000 per unit in a development. The actual cost to you will depend on such factors as lot size, the proximity of existing feeder facilities, the existing feeder capacity, terrain and other environmental conditions (e.g., railroads, waterways). Please contact Frontier if you require a more precise estimate of construction costs for the Development.

Additionally, circumstances not currently known to Frontier may hinder or impede the installation of communication services and Frontier reserves the right to react to such circumstances in its discretion. Should you need any additional information, please do not hesitate to contact me.

Sincerely,

Brenda Mc Williams | Frontier Communications
Supervisor-Network Operations
2020 Loop 306
San Angelo, Texas 76904
(325) 949-0884 (o)



March 13, 2018

Mr. Jon Thompson
J. Thompson
J Thompson Professional Consulting
PO Box 172
Dripping Springs, Texas 78620

Re: 207 East Meadow Lane – Wimberley, Texas 78676

Dear Mr. Thompson:

Thank you for your interest in establishing service with Pedernales Electric Cooperative. The above referenced property in Wimberley, Texas is within the Cooperative's service area. We will extend service to this location in accordance with our Line Extension Policy, which requires that you apply for electric service and pay connection fees for each metered account. Also, if construction of electric service facilities is needed, you must pay all construction fees and grant or acquire all necessary easements before construction can begin.

If you have any questions, please call me at 1-800-868-4791, Extension 7525, Monday through Friday, between 8 a.m. and 5 p.m.

Sincerely,

Jessica L. Garcia
Distribution Planner

Wimberley Water Supply Corporation

P.O. Box 10
Wimberley, Texas 78676
(512) 847-2323

March 6, 2019

Jon Thompson,

The provided area located at 207 East Meadows Lane, Cypress Creek Acres Subdivision, Lot 49 lies within the CCN boundaries of Wimberley WSC. Therefore, Wimberley WSC is the water provider for this location.

If you have any questions, please call me at 512-847-2323.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Allen". The signature is fluid and cursive, with a large initial "G" and a long, sweeping underline.

Garrett Allen
General Manager

TAX CERTIFICATE

712 S. Stagecoach Trail
 San Marcos, TX 78666
 Ph: 512-393-5545 Fax: 512-393-5517

This certificate includes tax years up to 2018

RSP - Special Road Dist
 FWI - Wimberley Fire Hays Co ESD #4

SWI - Wimberley ISD
 GHA - Hays County
 EWI - Wimberley ESD #7

Property ID : 11-2265-0000-04900-8
 Quick-Ref ID : R25613

Owner ID : O0255263

207 E MEADOW LN
 WIMBERLEY TX 78676

Value Information	
Land HS	: \$101,060.00
Land NHS	: \$0.00
Imp HS	: \$168,010.00
Imp NHS	: \$0.00
Ag Mkt	: \$0.00
Ag Use	: \$0.00
Tim Mkt	: \$0.00
Tim Use	: \$0.00
HS Cap Adj	: \$0.00
Assessed	: \$269,070.00

PARCHESKY PETER & COLEEN
 207 E MEADOW LN
 WIMBERLEY, TX 78676

Ownership: 100.00%

CYPRESS CREEK ACRES,
 LOT 49, ACRES 5.00

This is to certify that after a careful check of the tax records of this office, the following delinquent taxes, penalties, interest and any known costs and expenses as provided by Tax Code Section 33.48 are due on the described property for the following taxing unit(s)

Entity	Year	Taxes	Penalties	Interest	Expenses	Total
SWI	2018	3,325.94	0.00	0.00	0.00	0.00
RSP	2018	114.35	0.00	0.00	0.00	0.00
GHA	2018	1,029.61	0.00	0.00	0.00	0.00
FWI	2018	106.01	0.00	0.00	0.00	0.00
EWI	2018	166.82	0.00	0.00	0.00	0.00

Total for current bills if paid by 3/31/2019 : \$0.00
Total due on all bills 3/31/2019 : \$0.00
 2018 taxes paid for entity SWI \$3,325.94
 2018 taxes paid for entity RSP \$114.35
 2018 taxes paid for entity GHA \$1,029.61
 2018 taxes paid for entity FWI \$106.01
 2018 taxes paid for entity EWI \$166.82
2018 Total Taxes Paid : \$4,742.73
Date of Last Payment : 12/17/18

If applicable, the above-described property has / is receiving special appraisal based on its use, and additional rollback taxes may become due based on the provisions of the special appraisal (Comptroller Rule 9.3040) or property omitted from the appraisal roll as described under Tax Code Section 25.21 is not included in this certificate.]



Signature of Authorized Officer of the Tax Office

Date of Issue : 03/04/2019
 Requestor : PARCHESKY PETER & COLEEN
 Receipt : DS-2019-055400
 Fee Paid : \$10.00
 Payer : JON PATRICK THOMPSON

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *Rob & Glenn Watson*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *Jennifer & Adam Hatfield*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *William & Brenda Meier*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *Steve Kraus*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *N.E. & Dorothy Jumbert*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *Dr. Paulman*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *Robert Cecil Robinson*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *Mariann Nissen*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *Diane Kuyper*
232 East Summit Dr.
Wimberley, TX 78676

U.S. Postal Service
CERTIFIED MAIL RECEIPT
Form 3800 (10-2018)

OFFICIAL USE

Postage Fee: \$3.50

Post Office: **POST OFFICE**
MAY - 7 2019

Postage and Fees: \$10.55

Postmark: \$6.85

To: *Robert W. Wood*
232 East Summit Dr.
Wimberley, TX 78676

RECEIVED
MAY 6 2019
CITY OF WOODCREEK

-----Original Message-----

From: Andy Davenport <ldavenpo@gmail.com>

To: mayor <mayor@woodcreektx.gov>; eric.eskelund <eric.eskelund@woodcreektx.gov>; raydontilley <raydontilley@woodcreektx.gov>; jk54 <jk54@txstate.edu>; manager <manager@woodcreektx.gov>; jmb58 <jmb58@verizon.net>; nancye.britner <nancye.britner@woodcreektx.gov>; aurora_lebrun444 <aurora_lebrun444@verizon.net>

Cc: Meredith Davenport <mddavenp@gmail.com>; Andy Davenport <ldavenpo@gmail.com>

Sent: Fri, Aug 16, 2019 12:14 am

Subject: Documentation of ongoing noise complaint - 155 Champion Cir

Dear Mayor, Council, and Committee Members,

I am writing to you at 11:20pm on Thursday Aug 15th because my family is again awakened from the rental activities next door and I'm not sure what I am supposed to be doing about it.

As we attempted to relay to you at this week's Planning & Zoning committee meeting, we've already spent three weeks in June/July attempting to follow City guidance to "document violations" which has resulted in, 1) neighbors hiring an attorney, 2) character accusations and slanderous commentary against our family, 3) no change in city policy and 4) no change in the ongoing behavior of the renters at 155 Champion Circle.

I've sent a text message to Ray Helm. Meredith has tried to download a decibel meter and is on our back porch in her pajamas attempting to quantify the experience.

This is horrible. It is the first day of school, it is nearly midnight, Meredith begins a 24-hour hospital shift in a few short hours, I have a full day of work ahead of me, and we are again being kept awake by the renters next door. It is undeniable that their activity is, "substantially interfering with the comfortable enjoyment of our private home" by preventing our ability to sleep. They are swimming and conversing loudly about topics including some that are inappropriate for our children.

We had a similar experience this past Monday, Aug 12th when we woke up to screaming late at night. It turned out to be renters in the pool next door again (for the record, we related this event at the P&Z Committee meeting on Tuesday).

I don't know what else to do other than to try and share these experiences with you in real time. When you awake in the morning from what I hope was a peaceful slumber, please put yourself in our shoes and try to experience our night. Then repeat this same experience every few days or more. If you are like me, you may begin to experience the mental anguish at bedtime just wondering if you'll get a restful sleep, or if it's going to be another night of being jolted awake at any hour.

We would appreciate any guidance you may be able to offer. After being awakened we struggled to determine an appropriate course of action. Calling Ray or the Sheriff seems excessive, trying to document these events as we've done (with audio and video) does not seem to be helpful. E-mailing you all (and texting Ray) was the solution we came up with.

I copied these email addresses from a previous thread and did not intentionally miss any one. Please share with any and all members appropriately, or pardon me if you were included erroneously.

Very Sincerely,
Andy & Meredith Davenport

PS - It is now 12:11 am. The party next door has moved inside. With any luck we may still catch a few hours of sleep before work & school.

ADMINISTRATION AND ENFORCEMENT

§ 156.135 GENERAL.

The city shall administer the provisions of this chapter and, in furtherance of such authority, the city shall:

(A) *Records.* Maintain permanent and current records with respect to this chapter, including amendments thereto;

(B) *Applications.* Receive, file and review all zoning applications to determine whether such plats comply with this chapter;

(C) *Board of Adjustment. (Board).* Grant variances for certain specific cases and hear appeals of decisions by City staff that allege errors in the decision by City staff.

(D) *Planning & Zoning Commission (Commission) Commission.* Receive, hear and act upon zoning applications to the Commission as required by this chapter, and forward its recommendations to the City Council;

(E) *Council.* Receive the recommendation of the Commission, together with the recommendations of city staff, cause notice to be given, hold a public hearing, hear from interested persons and act in its legislative discretion on the zoning change or issue; and

(F) *Implementation.* The Board, Commission, and Council shall make other determinations and decisions as may be required of the City by this chapter, and enforce and implement this chapter and the final decisions of the Board and Council. .

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.136 ORDINANCE INTERPRETATION.

In the interpretation and application of the terms and provisions of this chapter, the following regulations shall govern.

(A) *Liberally construed.* In the city's interpretation and application, the provisions of this chapter shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare. This chapter shall be regarded as remedial and shall be liberally construed to further its underlying purposes.

(B) *Highest standards govern.* Whenever a provision of this chapter or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

(C) *Resolution of conflicting interpretations.* Where there arises a question concerning the meaning or intent of a provision of this chapter, a written decision setting forth the manner in which said provision shall be interpreted and administered is encouraged. In the event exception is taken by any interested party to such a decision, the matter may be appealed to the Commission and, as appropriate, to the Council whose decision shall be final.

(D) *Written decisions binding.* Any final written decision made as provided in division (C) above shall be archived and shall govern interpretation of this chapter until such time as an amendment of this chapter nullifies such decision, or the decision is overruled or rescinded by the City Council.

(E) *State law.* The terms, provisions and conditions of this chapter shall be interpreted and applied in a manner consistent with state law and Tex. Local Gov't Code Ch. 211, in particular.

(F) *Master Plan.* All zoning applications shall conform to the current Master Plan for the City and be consistent with all of the elements of the current Master Plan.

(1) Where the proposed zoning application is inconsistent with one or more of the elements of the Master Plan, the developer shall file a petition with the City proposing an amendment to the particular element or elements of the Master Plan prior to submitting a request for subdivision plat or development plan approval. Failure to comply with the provisions of the Master Plan shall be grounds for disapproval of the zoning application.

(2) Where the proposed zoning is for a zoning district or category provided for in this chapter, but that is not included in the Master Plan existing on the date of this chapter, or not existing on the date of such application, the applicant shall submit a request for amendment to the Master Plan and provide information and documentation in support of such amendment. Such amendment will be treated as a request for variance and shall follow the procedures for filing a variance detailed in Section 156.137 of this Chapter.

(G) *Consistency with the Subdivision Ordinance.* All development projects within the corporate limits of the city or its Extra Territorial Jurisdiction (ETJ) shall comply with Chapter 155 of this Code of Ordinances. . Where the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary approval to zoning reclassification. .and shall follow the procedures detailed in Section 156.158 of this Chapter.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.137 BOARD OF ADJUSTMENT.

(A) *Established.* A Board of Adjustment (hereafter in this section, the "Board") ", as defined in Chapter 30 of this Code of Ordinances, has been established subject to the standards of the Tex. Local Gov't Code § 211.008 to 211.011 and those established therein to exercise the powers and duties regarding the zoning of cities provided in said Code. .

(B) The Board shall consist of seven (7) members, five (5) regular members and two (2) alternates who are resident citizens and qualified voters of the City of Woodcreek. Council shall appoint the Board with each Council member submitting one name for regular appointment, and the Mayor submitting two names for alternates. Procedures for appointment, terms of office, and filling of vacancies are detailed in Section 30.57 of this Code of Ordinances. The Board shall comply with the following rules:

1. Meetings of the Board shall be held at the call of the Chair and at other times as the Board may determine necessary to hear appeals or requests for variances. Four (4) members of the Board shall constitute a quorum for the Board to conduct business. All cases to be heard by the Board will be heard by, at least, 75% of the members, which constitutes four (4) members
2. All meetings of the Board shall be open to the public and meeting notices shall be posted in advance in accordance with Texas Open Meetings Law. Refer to Tex. Gov't Code, Title 5, Ch. 551. All meetings will be electronically recorded and such recordings will be available for public review.
3. The Chair of the Board shall keep minutes, or designate a member of the Board to keep minutes, of the Board's proceedings. The minutes shall record the vote of each member on each question of fact, including whether a member is absent or abstains from voting. The Board shall keep records of its examinations and official actions. The minutes, electronic recordings, and records shall be signed and attested to by the Board Chair and Vice Chair and shall be filed immediately with the City Secretary and considered public records.
4. Findings of the Board together with any recommendations it receives, and the specific facts upon which its findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting and are considered public records.

(C) *Powers and duties of the Board.* The Board shall have the following powers as specified in Chapter 30 of this Code of Ordinances:

1. *Appeals based on error.* Hear and decide an appeal that alleges error in an order, requirement, decision, or determination by an administrative official of the City, as authorized in Tex. Local Gov't Code Ch 211.

2. *Special exceptions.* In addition to the duties specified in Chapter 30 of this Code of Ordinances and this Chapter, the Board shall have the power to hear and decide special exceptions to the terms of this chapter when this chapter requires the Board to do so. Such special exception shall be as follows: authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience. In these cases, the applicant shall follow the same procedure as for requesting a variance. All timelines and processes detailed under Procedures to Request a Variance shall apply to special exceptions.

3. *Variances.* Hear and decide requests for variances from the requirements of Ch. 50, 151, 152, 152, 153, 154, 155 and 156 of this code of ordinances; provided that, the variance is not contrary to public interest and, due to special conditions, a literal enforcement of the articles would result in unnecessary hardship, and so that the spirit of these articles is observed and substantial justice is done. Refer to Section 30.62 of this Code of Ordinances for additional detail on types of variances and procedures to request.

(D) *Procedures for requesting a variance.* The procedure to request a variance is detailed in Section 30.64 of this Code of Ordinances and below:

1. An applicant for a variance shall submit a request for a variance from the terms of Ch.50, 151, 152, 153, 154, 155, and 156 of this Code or ordinances when the applicant believes strict application of the terms of this Code of ordinances would result in unnecessary hardship.

2. **Address.** The applicant shall submit the request for variance in writing and, if so required by the City, in the appropriate form. The request may be mailed or hand-delivered to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas 78676. The City Secretary shall date stamp the request upon receipt and provide a receipt to the applicant.

3. **Variance Request Format.** The request for a variance shall comply with Section 30.62 of Chapter 30 of this Code of

Ordinances and this Chapter and shall clearly state the grounds for requesting the variance, such as the unusual conditions or circumstances which, in the applicant's opinion, justify the variance. The request for variance shall include documentation detailing the specific variance and may include drawings, plat plans, site and building plans, or other documentation the applicant believes to be relevant to the request.

4. The City shall be responsible for notifying all property owners within 200 feet of the property for which a variance is requested of the variance requested and the date, time, and location of the Board of Adjustment meeting where the request for variance will be heard. The notification will include a complete description of the variance requested.

5. **Deadline for decision on variance request.** The request for variance will be approved or denied within forty-five (45) calendar days from the date a procedurally complete request for variance is received by the City. Failure to take action on a submitted request for variance within the prescribed forty-five (45) calendar days results in an automatic approval of the variance.

6. **Fee.** There shall be no fee for requesting a variance, but a deposit of \$100 will be required at the time of filing to cover City expenses for processing, reproduction, or required publication. In cases where expenses are projected to exceed the deposit, City staff will notify applicant of estimated costs before incurring such costs. In cases where expenses do not reach \$100, the balance will be refunded to the applicant. No deposit shall be required for those cases where the variance is requested to provide reasonable accommodation to a person with a disability or to remove a barrier to accessibility by persons with disabilities. In cases of reasonable accommodation, expenses will be borne by the City.

(E) *Appeals.*

1. **General.** The Board shall have the power to hear and decide an appeal that alleges an error in an order, requirement, decision or determination made by an administrative official in the enforcement of Tex. Local Gov't Code Ch. 211 and Ch. 50, 92, 151, 152, 153, 154, 155, and 156 of this code of ordinances and other city ordinances granting appellate jurisdiction to the Board.
2. **Procedure.** The procedure for asserting is detailed in § 30.63 of Chapter 30 of this Code of Ordinances and below:
 - a. **Appellant.** In the event that any person has been aggrieved by the decision of an administrative official, pertaining to Tex. Local Gov't Code Ch. 211 and Ch. 50,92, 151, 152, 153, 154, 155, and 156 of this code of ordinances, such person may submit an appeal to the Board.
 - b. **Written request.** A request for an appeal alleging error (as provided in § 30.61 of this Code of Ordinances) shall be made in writing and include information to support the request for the appeal. Such information may include, but is not limited to, documentation previously provided to the City official, plat plans, site and building plans, contour maps and locations of existing flora. The request for an appeal alleging an error shall clearly state the grounds for the appeal.
 - c. **Stay of proceedings after appeal is filed.** An appeal stays all proceedings in furtherance of the action that is appealed unless the City Engineer certifies in writing to the Board of Adjustment that a stay would cause imminent peril to life or property. If, after reviewing facts in the City Engineer's certification, the Board agrees with such facts, the action will not be stayed.
 - d. **Fee.** There shall be no fee for an appeal.
 - e. **Address.** The request for appeal shall be mailed or hand-delivered to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas, 78676. The City Secretary shall date stamp the appeal upon receipt and provide a receipt to the applicant.
 - f. **Notice/request and deadline for appeal alleging error.** The notice of appeal must be filed no more than ten (10) business days from the date of the decision by the City official. On receiving notice of appeal from the Board, the designated City official shall immediately notify the Chair of the Board of the appeal and begin assembling and copying all documents constituting the record of the action that is appealed.
 - g. **Deadline for decision on an appeal.** The request for appeal will be approved or denied within thirty (30) calendar days from the date a procedurally complete request for appeal is received by the city. Failure to take action on a request for appeal within the prescribed thirty (30) calendar days results in an automatic approval of the appeal.
 - h. **Necessary percentage of vote.** The concurring vote of at least four (4) Board members in attendance is necessary to reverse an order, requirement, decision, or determination of an administrative official.

HEARINGS AND DECISIONS

- (A) Setting a hearing. After receiving a request for an appeal of an administrative decision or a variance request, the Board shall set a date and time for a hearing. This date shall be within a reasonable time from receipt of the request but shall be set to comply with the deadlines to render a decision set forth in Sections 30.63 and 30.64 of this Code of Ordinances and this Chapter. Once a date is set, the Board shall provide due notice to the parties in interest and post a public notice of the hearing.
- (B) Public hearings. All hearings relating to an appeal alleging error shall be public and posted in advance in accordance with Texas Open Meetings Law. Refer to Tex. Gov't Code, Title 5, Ch. 551. All meetings will be electronically recorded and such recordings will be available for public review. At any hearing, any party may appear in person, by agent or by attorney.
- (C) Decisions by Board.
1. The Board shall decide appeals alleging error within thirty (30) calendar days from receipt of a procedurally complete appeal. The Board, upon a majority vote (4 members) may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.
 2. b. The Board shall decide requests for variances within forty-five (45) calendar days from receipt of a procedurally complete request for variance. The Board, upon a majority votes (4 members), may grant or deny, in whole or in part, a request for variance. For that purpose, the Board has the same authority as an administrative official for the City.
- (D) Denials by the Board. Any person or persons jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any official, department, board or bureau of the city, may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code § 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision of the board of adjustment in the office of the city manager.

{Ord. 00-65N, passed 6-1-2005; Ord. 14-198, passed 7-9-2014; Ord. 19-255, passed 3-13-2019; Ord. 19-256, passed 3-13-2019}

§ 156.138 CONDITIONS FOR ISSUING A BUILDING PERMIT.

No building permit will be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this chapter, all other applicable city ordinances and all applicable elements of the master plan, except as herein exempted, or upon the written application and approval of a variance.

{Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019}

§ 156.139 CERTIFICATES OF OCCUPANCY.

- (A) *Policy and application.* Certificates of occupancy will be required for any of the following:
- (1) Occupancy of any structure or building hereafter erected or structurally altered;
 - (2) Change in occupancy of an existing building to an occupancy of a different zoning district; and
 - (3) No change of occupancy of any new or altered portion of any, structure or building, or any such building or structure will take place until a certificate of occupancy therefor shall have been issued by the city.
- (B) *Procedure.*
- (1) *New structures.* No structure shall be occupied until a final inspection is made by the appropriate city official.
 - (2) *Altered structures.* Written application for a certificate of occupancy for an existing building which is to be issued within seven days after a written request for it has been made to the city. The erection or alteration of such building or part thereof shall be completed in conformity with the provisions of this chapter and all applicable city codes and ordinances.
 - (3) *Change in use.* Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided, shall be made to the city. If the proposed use is in conformity with the provisions of this chapter, a certificate of occupancy shall be issued within seven days after the application for same has been made.
- (C) *Approval.* Every certificate of occupancy shall state that the building or the proposed occupancy of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the city offices and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.
- (D) *Temporary certificate of occupancy.* Pending the issuance of a regular certificate of occupancy, a temporary certificate may be issued by the city for a period not exceeding six months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as, in any way, altering the respective rights, duties or obligations of the owners, or of the city, relating to the use or occupancy of the premises or any other matter covered by this chapter.

{Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019}

AMENDMENTS

§ 156.150 STATEMENT OF INTENT.

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the city, this chapter shall not be amended except to correct error in the ordinance, or because of changed or changing conditions in a particular area or in the city generally, or to rezone an area, extend the boundary of an existing zoning district or to change the regulations and restrictions thereof, all in accordance with the Comprehensive Plan. The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this chapter. This chapter may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.151 AMENDMENT LIMITATION; REZONING.

Subject to the limitations of the foregoing statement of intent, an amendment of this chapter may be requested by any person; provided that, an amendment to rezone any property may be initiated only by:

- (A) The City Council on its own motion;
- (B) The Planning and Zoning Commission; or
- (C) Petition by the landowner or his or her authorized agent.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.152 RESPONSIBILITY FOR CHANGE.

The City Council has sole responsibility for changes in the zoning map and changes in the zoning ordinance. The zoning and rezoning of land is in the legislative discretion of the City Council. Zoning and rezoning shall be by ordinance only.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.153 REFERRAL OF AMENDMENT TO COMMISSION.

Any request for rezoning as prescribed in § 156.151 of this chapter, or the receipt of an administratively complete petition and application to zone or rezone, a lot, tract or parcel of land, which petition and application have been examined and approved as to form by the City Secretary, shall be referred to the Commission for consideration, public hearing and recommendation to the Council. The Council may not enact a rezoning amendment until the Commission has held a public hearing and made its recommendation to the Council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.154 ACTION BY THE COMMISSION.

The Commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the Council such action as the Commission deems proper. Written notice of the proposed zoning change shall be mailed, by the U.S. Postal Service, to the owner of each tract or parcel of land that is within 200 feet of the property for which zoning is requested, not less than 15 days prior to the date of the public hearing to be held by the Commission.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.155 ACTION BY THE COUNCIL.

The Council shall give public notice and hold a public hearing before taking final action to zone or rezone any land.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.156 PUBLIC HEARING AND NOTICE OF THE PROPOSED ZONING CHANGE.

(A) Not less than 15 days prior to the date of the public hearing to be held by the Commission on each zoning or rezoning, written notice of the public hearing and the zoning proposed shall be mailed by the U.S. Postal Service to the owner of each lot, tractor parcel of land within 200 feet of the lot, tract or parcel being considered for zoning. Such notice shall be mailed by first class mail addressed to the persons or firms to whom the properties are assessed on the city tax rolls.

(B) Notice of the public hearing to be held by the Council shall be given by publishing such notice at least once in a newspaper of general circulation in the city, at least 15 days prior to the date set for public hearing.

(C) If the zoning or rezoning is proposed by the Council or the Commission, notice of the proposed zoning change shall be made by the City Secretary, mailing notification by first class mail to the person or firm to whom the property is assessed on the city tax rolls, and to all persons or firms to whom the property within 200 feet of the proposed zoning change is assessed on the city tax rolls.

(D) The required notice for public hearing having been given for the zoning or rezoning of a tract of land, the Commission or the Council may, as applicable, continue such matter to subsequent public meetings for consideration and may, in the same zoning process or proceeding, recommend zoning/rezoning or, as applicable, zone or rezone the property for which notice was given for a use or zoning district that is a less intensive use than the use for which the notices were given, without additional or further notices being given; provided that, the less intensive district is within the same general-use category (e.g., duplex requested and single-family zoning granted, multiple-family zoning requested) and the granted rezoning is a less intensive multiple-family zoning duplex or single-family.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.157 PROTEST OF PROPOSED AMENDMENT.

If a protest(s) against any proposed rezoning or zoning change for any land is presented in writing to the City Secretary prior to the public hearing

thereon, duly signed by the owners of 20% or more either of the area of lots included in the proposed change or of the lots or land immediately adjoining the same and extending 200 feet therefrom, such amendment shall not become effective, except by the favorable vote of three-fourths of all members of the Council.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.158 PROCEDURE FOR AMENDMENT PETITION.

(A) *Filing of application.* All petitions to change zoning or rezone property shall contain at least the following:

- (1) The petitioner's name, address and interest in the petition, as well as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition;
- (2) The nature and effect of the proposed amendment and zoning or permit requested;
- (3) A fully scaled map showing:
 - (a) The land affected by the proposed amendment;
 - (b) A legal description of the land;
 - (c) The present zoning classification of the land;
 - (d) The zoning classification of all abutting land; and
 - (e) All public and private rights-of-way and easements bounding and intersecting the land.
- (4) If applicable, the alleged error in this chapter, which would be corrected by the proposed amendment, together with a detailed explanation of such error and how the proposed amendment will correct same;
- (5) The changed or unchanging conditions, if any, in the area or in the municipality generally, which make the proposed amendment reasonably necessary; and
- (6) A statement of all other circumstances, factors and reasons the applicant offers in support of the proposed amendment.

(B) *Time limitation.* If a petition for rezoning is denied by the City Council, another petition for reclassification of the same property or any portion thereof shall not be filed with a period of 12 months from the date of final denial, except with the permission of the City Council.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.159 FEES.

If the application is submitted by other than the City Council or by the Planning and Zoning Commission, the applicant seeking rezoning approval shall pay to the city at the time of submittal a fee to be determined by City Council.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.999 PENALTY.

(A) Except as otherwise provided for in this chapter, it shall be unlawful for any person (see definition of "person" in § 156.009 of this chapter) to develop, improve or sell any lot, parcel, tract or block of land within the city's extraterritorial jurisdiction, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this chapter.

(B) (1) *Administrative action.* The city shall enforce this chapter by appropriate administrative action, including, but not limited to, the rejection of plans, maps, plats and specifications not found to be in compliance with this chapter and good engineering practices, and the issuance of stop work orders.

(2) *Court proceedings.* Upon the request of the City Council the City Attorney shall file an action in District Court to enjoin the violation or threatened violation of this chapter, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property established pursuant to this chapter.

(C) In any prosecution charging a violation of this chapter governing the zoning regulations, proof that the property described in the complaint was in violation of any section above, together with proof that the defendant named in the complaint was, at the time of the zoning violation, either the occupant or the registered owner of such property, shall constitute in evidence a prima facie presumption that the owner of such property was the person who knowingly and intentionally committed or permitted the violation for the time during which such violation occurred.

(D) Any person who shall violate any of the provisions of this chapter, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of \$2,000. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

Woodcreek, TX Code of Ordinances

ADMINISTRATION AND ENFORCEMENT

§ 156.135 GENERAL.

The city shall administer the provisions of this chapter and, in furtherance of such authority, the city shall:

- (A) Records. Maintain permanent and current records with respect to this chapter, including amendments thereto;
(B) Applications. Receive, file and review all zoning applications to determine whether such plans comply with this chapter;
(C) Board of Adjustment (Board). Grant variances for certain specific cases and hear appeals of decisions by City staff that allege errors in the decision by City staff;
(D) Planning & Zoning Commission (Commission). Receive, hear and act upon zoning applications to the Commission as required by this chapter, and forward its recommendations to the City Council;
(E) Council. Receive the recommendation of the Commission, together with the recommendations of city staff, cause notice to be given, hold a public hearing, hear from interested persons and act in its legislative discretion on the zoning change or issue; and
(F) Implementation. The Board, Commission, and Council shall make other determinations and decisions as may be required of the City by this chapter, and enforce and implement this chapter and the final decisions of the Board and Council.
(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.136 ORDINANCE INTERPRETATION.

In the interpretation and application of the terms and provisions of this chapter, the following regulations shall govern.

- (A) Liberally construed. In the city's interpretation and application, the provisions of this chapter shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare. This chapter shall be regarded as remedial and shall be liberally construed to further its underlying purposes.
(B) Highest standards govern. Whenever a provision of this chapter or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.
(C) Resolution of conflicting interpretations. Where there arises a question concerning the meaning or intent of a provision of this chapter, a written decision setting forth the manner in which said provision shall be interpreted and administered is encouraged. In the event exception is taken by any interested party to such a decision, the matter may be appealed to the Commission and, as appropriate, to the Council whose decision shall be final.
(D) Written decisions binding. Any final written decision made as provided in division (C) above shall be archived and shall govern interpretation of this chapter until such time as an amendment of this chapter, such decision, or the decision is overruled or rescinded by the City Council.
(E) State law. The terms, provisions and conditions of this chapter shall be interpreted and applied in a manner consistent with state law and Tex Local Govt Code Ch. 211, in particular.
(F) Master Plan. All zoning applications shall conform to the current Master Plan for the City and be consistent with all of the elements of the current Master Plan.

- (1) Where the proposed zoning application is inconsistent with one or more of the elements of the Master Plan, the developer shall file a petition with the City proposing an amendment to the particular element or elements of the Master Plan prior to submitting a request for subdivision plat or development plan approval. Failure to comply with the provisions of the Master Plan shall be grounds for disapproval of the zoning application.
(2) Where the proposed zoning is for a zoning district or category provided for in this chapter, but that is not included in the Master Plan existing on the date of this chapter, or not existing on the date of such application, the applicant shall submit a request for amendment to the Master Plan and provide information and documentation in support of such amendment. Such amendment will be treated as a request for variance and shall follow the procedures for such a variance outlined in Section 156.137 of this Chapter.
(G) Consistency with the Subdivision Ordinance. All development projects within the corporate limits of the city or its Extra-Territorial Jurisdiction (ETJ) shall comply with Chapter 156 of the Code of Ordinances. Where the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary approval to zoning reclassification, and shall follow the procedures detailed in Section 156.138 of this Chapter.
(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.137 BOARD OF ADJUSTMENT.

- (A) Established. A Board of Adjustment (hereafter in this section, the "Board") is, as defined in Chapter 23 of the Code of Ordinances, has been established subject to the standards of the Tex. Local Govt Code, § 211.008 by 211.011, and those established therein, to exercise the powers and duties regarding the zoning of cities provided in said Code.
(B) The Board shall consist of seven (7) members, five (5) regular members and two (2) alternates who are resident citizens and qualified voters of the City of Woodcreek. Council shall appoint the Board with each Council member submitting one name for regular appointment and the Mayor submitting two names for alternates. Procedures for appointment, terms of office, and filling of vacancies are detailed in

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Sections 30.52 of the Code of Ordinances. The Board shall comply with the following rules:

1. Meetings of the Board shall be held at the call of the Chair and at other times as the Board may determine necessary to hear appeals or requests for variances. Four (4) members of the Board shall constitute a quorum for the Board to conduct business. All cases to be heard by the Board will be heard by at least 75% of the members, which constitutes four (4) members.
2. All meetings of the Board shall be open to the public and meeting notices shall be posted in advance in accordance with Texas Open Meetings Law. Refer to Tex. Gov't Code, Title 5, Ch. 551. All meetings will be electronically recorded and such recordings will be available for public review.
3. The Chair of the Board shall keep minutes, or designate a member of the Board to keep minutes, of the Board's proceedings. The minutes shall record the vote of each member on each question of fact, including whether a member is absent or abstains from voting. The Board shall keep records of its examinations and official actions. The minutes, electronic recordings, and records shall be signed and attested to by the Board Chair and Vice Chair and shall be filed immediately with the City Secretary and considered public records.
4. Findings of the Board together with any recommendations it receives, and the specific facts upon which its findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting and are considered public records.

(C) Powers and duties of the Board. The Board shall have the following powers as specified in Chapter 30 of this Code of Ordinances:

1. Appeals based on error. Hear and decide an appeal that alleges error in an order, review, decision or determination by an administrative official of the City, as authorized in Tex. Local Gov't Code Ch. 211.
2. Special exceptions. In addition to the duties specified in Chapter 30 of this Code of Ordinances and this Chapter, the Board shall have the power to hear and decide special exceptions to the terms of this chapter when this chapter requires the Board to do so. Such special exception shall be as follows: authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience. ~~where such the applicant shall follow the same procedure as for requesting a variance. All procedures and processes detailed under Procedures to Request a Variance that apply to special exceptions.~~
3. Variances. Hear and decide requests for variances from the requirements of Ch. 50, 151, 152, 153, 154, 155 and 156 of this code of ordinances, provided that the variance is not contrary to public health and safety or special conditions. A literal enforcement of the codes would result in unnecessary hardship, and so that the spirit of these articles is observed and substantial justice is done. Refer to Section 30.62 of the Code of Ordinances for additional detail on types of variances and procedures to request.

(D) Procedures for requesting a variance. The procedure to request a variance is detailed in Section 30.64 of this Code of Ordinances, and below:

1. An applicant for a variance shall submit a request for a variance from the terms of Ch. 50, 151, 152, 153, 154, 155, and 156 of this Code of Ordinances when the applicant believes that enforcement of the terms of this Code of Ordinances would result in unnecessary hardship.
2. Address. The applicant shall submit the request for variance in writing and, if so required by the City, in the appropriate form. The request may be made at any time to the City of Rockwall, 41 Chamberlain Circle, Mesquite, Texas 75068. The City Secretary shall date stamp the request upon receipt and provide a receipt to the applicant.
3. Variance Request Form. The request for a variance shall comply with Section 30.64 of Chapter 30 of this Code of Ordinances and this Chapter, and shall clearly state the grounds for requesting the variance, such as the unusual conditions or circumstances which, in the applicant's opinion, justify the variance. The request for variance shall include a diagram detailing the specific variance and may include drawings, plan, plat, site and zoning plans, or other documentation the applicant believes to be relevant to the request.
4. The City shall be responsible for notifying all property owners within 200 feet of the property for which a variance is requested of the variance requested and the date, time, and location of the Board of Adjustment meeting where the request for a variance will be heard. The notification will include a complete description of the variance requested.

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Deleted: (8) Plans and regulations. The Board shall have notice of its proceedings showing the vote of each member upon each question or if absent or failing to vote indicating such fact and such minutes shall be immediately filed in the office of the Board and shall be a public record. The Board of Adjustment shall act by resolution which has majority approval. The Board may adopt rules in accordance and consistent with this chapter as necessary and authorized. A copy of any such rules shall be furnished to any person requesting same. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.

Deleted: (9) Powers and duties of the Board.

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Deleted: The Board shall have the power to hear and decide appeals where it is alleged there is error in any order, review, decision or determination made by an administrative official in the enforcement of Tex. Local Gov't Code Ch. 211 or the chapter hereof.

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Deleted: (8) Unnecessary hardship, and so that the spirit of these articles is observed and substantial justice is done, including the following:

Deleted: (9) First and foremost, protect a variance in the subject request identified any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions, provided that such variance will not significantly affect any adjoining property or the general welfare of the City.

(10) Structures. Authority upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this chapter as a hardship with a general purpose and merit, but only when the Board is satisfied that a granting of such variance will not clearly result as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty which is not as to request a variance as established by this chapter and at the same time the surrounding property will be properly protected, provided that the Board shall not in any way permit a use on any property that is not permitted within the zoning category for which such property is zoned.

Deleted: (11) Hearing in the carrying out of these provisions due to an irregular shape of the lot or other conditions, provided that such variance will not significantly affect any adjoining property or the general welfare of the City.

(12) Structures. Authority upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this chapter as a hardship with a general purpose and merit, but only when the Board is satisfied that a granting of such variance will not only serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty which is not as to request a variance as established by this chapter and at the same time the surrounding property will be properly protected, provided that the Board shall not in any way permit a use on any property that is not permitted within the zoning category for which such property is zoned.

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5. Deadline for decision on variance request. The request for variance will be approved or denied within forty-five (45) calendar days from the date a procedurally complete request for variance is received by the City. Failure to take action on a submitted request for variance within the prescribed forty-five (45) calendar days results in an automatic approval of the variance.

6. Fee. There shall be no fee for requesting a variance, but a deposit of \$100 will be required at the time of filing to cover City expenses for processing, reproduction, or required publication. In cases where expenses are projected to exceed the deposit, City staff will notify applicant of estimated costs before incurring such costs. In cases where expenses do not reach \$100, the balance will be refunded to the applicant. No deposit shall be required for those cases where the variance is requested to provide reasonable accommodation to a person with a disability or to remove a barrier to accessibility by persons with disabilities. In cases of reasonable accommodation, expenses will be borne by the City.

(E) Appeals

1. General. The Board shall have the power to hear and decide an appeal that alleges an error in an order, requirement, decision or determination made by an administrative official in the enforcement of Tex. Local Gov't Code Ch. 211 and Ch. 50, 92, 151, 152, 153, 154, 155, and 156 of the code of ordinances, and other city ordinances granting appellate jurisdiction to the Board.
2. Procedure. The procedure for asserting is detailed in § 30.63 of Chapter 30 of this Code of Ordinances and below:
 - a. Appellate. In the event that any person has been aggrieved by the decision of an administrative official pertaining to Tex. Local Gov't Code Ch. 211 and Ch. 50, 92, 151, 152, 153, 154, 155, and 156 of the code of ordinances, such person may submit an appeal to the Board.
 - b. Written request. A request for an appeal alleging error (as provided in § 30.63 of this Code of Ordinances) shall be made in writing and include information to support the request for the appeal. Such information may include, but is not limited to, documentation previously provided to the City official, plat plans, site and building plans, contour maps and locations of existing flora. The request for an appeal alleging an error shall clearly state the grounds for the appeal.
 - c. Stay of proceedings after appeal is filed. An appeal stays all proceedings in furtherance of the action that is appealed unless the City Engineer certifies in writing to the Board of Adjustment that a stay would cause imminent peril to life or property. If, after reviewing facts in the City Engineer's certification, the Board agrees with such facts, the stay shall be in effect.
 - d. Fee. There shall be no fee for an appeal.
 - e. Address. The request for appeal shall be mailed or hand-delivered to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas 78076. The City Secretary shall date stamp the appeal upon receipt and provide a receipt to the appellant.
 - f. Notice, request and deadline for appeal alleging error. The notice of appeal must be filed no more than ten (10) business days from the date of the decision by the City official. On receiving notice of appeal from the Board, the designated City official shall immediately notify the Chair of the Board of the appeal and begin assembling and copying all documents constituting the record of the action in dispute.

3. Deadline for decision on an appeal. The request for appeal will be approved or denied within thirty (30) calendar days from the date a procedurally complete request for appeal is received by the city. Failure to take action on a request for appeal within the prescribed thirty (30) calendar days results in an automatic approval of the appeal.

4. Necessary percentage of vote. The concurring vote of at least four (4) Board members in attendance is necessary to reverse an order, requirement, decision, or determination of an administrative official.

HEARINGS AND DECISIONS

(A) Setting a hearing. After receiving a request for an appeal of an administrative decision or a variance request, the Board shall set a date and

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(2) The request for a variance and a variance request fee in accordance with the Master Plan of Woodcreek adopted by resolution of the City of Woodcreek will be mailed to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas 78076.

(3) The City will be responsible for notifying all property owners within 700 feet of the property for which the variance is requested of variance request and the time and location of the Board of Adjustment meeting at which time the request for variance will be acted upon. The notification will include a complete description of requested variance.

(4) The request for variance will be approved or denied within 45 days of the date the request is received.

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Deleted: (1) In the event that any person has been aggrieved by a decision of an administrative official in the enforcement of Tex. Local Gov't Code Ch. 211 and of this chapter, such person may submit an appeal in accordance with the rules of the Board within ten days of the decision. Additionally, any other department board or bureau of the City may appeal a decision relative to the enforcement of Tex. Local Gov't Code Ch. 211 and of this chapter.

(2) The appeal shall be a written appeal setting forth the grounds for the appeal and it shall be filed with the Board with the administrative official. The administrative official shall forward the appeal to the Board of Adjustment with the pertinent to the appeal.

(3) Stay of proceedings. Such appeal shall stay all further action relative to the appealed decision by the administrative official. If the administrative official deems that continuing the stay would cause imminent peril to life or property, he or she shall certify the facts relating to such an opinion to a written certification to the Board. In the event that the cause is shown and determined by the administrative official, the stay may be continued only by a continuing order granted by the Board or by a court of record in accordance with § 30.63 of this Code of Ordinances.

(4) Hearing of the appeal. The Board shall set a reasonable time for the hearing of the appeal and shall provide notice to the parties of interest, who may appear at the hearing in person or by representation of an attorney, or agent.

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Deleted: (4) Decision by the Board. The Board shall decide appeals within a reasonable time. Any case in the appeal may appear in person or by agent or attorney, at any hearing. The Board may ignore the concurring vote of four members, reverse or affirm, in whole or in part, or modify the administrative official's order, requirement or decision, and make the correct order regular.

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time for a hearing. The date shall be within a reasonable time from receipt of the request but shall be set so comply with the deadlines to render a decision set forth in Sections 39.03 and 39.04 of this Code of Ordinances and this Chapter. Once a date is set, the Board shall provide due notice to the parties in interest and post a public notice of the hearing.

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(B) Public hearings. All hearings relating to an appeal alleging error shall be public and posted in advance in accordance with Texas Open Meetings Law. Refer to Tex. Gov't Code, Title 5, Ch. 541. All meetings will be electronically recorded and such recordings will be available for public review. At any hearing, the party may appear in person, by agent, or by attorney.

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(C) Decisions by Board.

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1. The Board shall decide appeals alleging error within thirty (30) calendar days from receipt of a procedurally complete appeal. The Board, upon a majority vote (4 members) may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.

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2. b. The Board shall decide requests for variances within forty-five (45) calendar days from receipt of a procedurally complete request for variance. The Board, upon a majority vote (4 members) may grant or deny, in whole or in part, a request for variance. For that purpose, the Board has the same authority as an administrative official for the City.

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(D) Appeals by the Board. Any person or persons jointly or severally, aggrieved by any decision of the Board of adjustment, or any taxpayer or any official, department, board or bureau of the City, may petition to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code § 211.011, due notice setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision of the board of adjustment in the office of the city manager.

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(Ord. 00-65N, passed 6-1-2005; Ord. 14-198, passed 7-9-2014; Ord. 19-255, passed 3-13-2019; Ord. 19-256, passed 3-13-2019)

§ 156.138 CONDITIONS FOR ISSUING A BUILDING PERMIT.

No building permit will be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this chapter, all other applicable city ordinances and all applicable elements of the master plan, except as herein exempted, or upon the written application and approval of a variance (Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.139 CERTIFICATES OF OCCUPANCY.

(A) Policy and application. Certificates of occupancy will be required for any of the following:

- (1) Occupancy of any structure or building hereafter erected or structurally altered;
- (2) Change in occupancy of an existing building to an occupancy of a different zoning district; and
- (3) No change of occupancy of any new, or altered portion of any, structure or building, or any such building or structure will take place until a certificate of occupancy therefor shall have been issued by the city

(B) Procedure.

- (1) New structures: No structure shall be occupied until a final inspection is made by the appropriate city official.
- (2) Altered structures: Written application for a certificate of occupancy for an existing building which is to be issued within seven days after a written request for it has been made to the city. The erection or alteration of such building or part thereof shall be completed in conformity with the provisions of this chapter and all applicable city codes and ordinances.
- (3) Change in use: Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided, shall be made to the city. If the proposed use is in conformity with the provisions of this chapter, a certificate of occupancy shall be issued within seven days after the application for same has been made.

(C) Approval: Every certificate of occupancy shall state that the building or the proposed occupancy of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the city offices and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.

(D) Temporary certificate of occupancy: Pending the issuance of a regular certificate of occupancy, a temporary certificate may be issued by the city for a period not exceeding six months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as, in any way, altering the respective rights, duties or obligations of the owners, or of the city, relating to the use or occupancy of the premises or any other matter covered by this chapter

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

AMENDMENTS

§ 156.150 STATEMENT OF INTENT.

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the city, this chapter shall not be amended except to correct error in the ordinance, or because of changed or changing conditions in a particular area or in the city generally, or

to rezone an area, extend the boundary of an existing zoning district or to change the regulations and restrictions thereof, all in accordance with the Comprehensive Plan. The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this chapter. This chapter may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.
(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.151 AMENDMENT LIMITATION; REZONING.

Subject to the limitations of the foregoing statement of intent, an amendment of this chapter may be requested by any person; provided that, an amendment to rezone any property may be initiated only by:

- (A) The City Council on its own motion;
- (B) The Planning and Zoning Commission; or
- (C) Petition by the landowner or his or her authorized agent.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.152 RESPONSIBILITY FOR CHANGE.

The City Council has sole responsibility for changes in the zoning map and changes in the zoning ordinance. The zoning and rezoning of land is in the legislative discretion of the City Council. Zoning and rezoning shall be by ordinance only.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.153 REFERRAL OF AMENDMENT TO COMMISSION.

Any request for rezoning as prescribed in § 156.151 of this chapter, or the receipt of an administratively complete petition and application to zone or rezone, a lot, tract or parcel of land, which petition and application have been examined and approved as to form by the City Secretary, shall be referred to the Commission for consideration, public hearing and recommendation to the Council. The Council may not enact a rezoning amendment until the Commission has held a public hearing and made its recommendation to the Council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.154 ACTION BY THE COMMISSION.

The Commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the Council such action as the Commission deems proper. Written notice of the proposed zoning change shall be mailed, by the U.S. Postal Service, to the owner of each tract or parcel of land that is within 200 feet of the property for which zoning is requested, not less than 15 days prior to the date of the public hearing to be held by the Commission.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.155 ACTION BY THE COUNCIL.

The Council shall give public notice and hold a public hearing before taking final action to zone or rezone any land.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.156 PUBLIC HEARING AND NOTICE OF THE PROPOSED ZONING CHANGE.

(A) Not less than 15 days prior to the date of the public hearing to be held by the Commission on each zoning or rezoning, written notice of the public hearing and the zoning proposed shall be mailed by the U.S. Postal Service to the owner of each lot, tract or parcel of land within 200 feet of the lot, tract or parcel being considered for zoning. Such notice shall be mailed by first class mail addressed to the persons or firms to whom the properties are assessed on the city tax rolls.

(B) Notice of the public hearing to be held by the Council shall be given by publishing such notice at least once in a newspaper of general circulation in the city, at least 15 days prior to the date set for public hearing.

(C) If the zoning or rezoning is proposed by the Council or the Commission, notice of the proposed zoning change shall be made by the City Secretary, mailing notification by first class mail to the person or firm to whom the property is assessed on the city tax rolls, and to all persons or firms to whom the property within 200 feet of the proposed zoning change is assessed on the city tax rolls.

(D) The required notice for public hearing having been given for the zoning or rezoning of a tract of land, the Commission or the Council may, as applicable, continue such matter to subsequent public meetings for consideration and may, in the same zoning process or proceeding, recommend zoning/rezoning or, as applicable, zone or rezone the property for which notice was given for a use or zoning district that is a less intensive use than the use for which the notices were given, without additional or further notices being given; provided that, the less intensive district is within the same general-use category (e.g., duplex requested and single-family zoning granted, multiple-family zoning requested) and the granted rezoning is a less intensive multiple-family zoning duplex or single-family.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.157 PROTEST OF PROPOSED AMENDMENT.

If a protest(s) against any proposed rezoning or zoning change for any land is presented in writing to the City Secretary prior to the public hearing thereon, duly signed by the owners of 20% or more either of the area of lots included in the proposed change or of the lots or land immediately adjoining the same and extending 200 feet therefrom, such amendment shall not become effective, except by the favorable vote of three-fourths of all members of the Council.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.158 PROCEDURE FOR AMENDMENT PETITION.

(A) *Filing of application.* All petitions to change zoning or rezone property shall contain at least the following:

- (1) The petitioner's name, address and interest in the petition, as well as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition;
- (2) The nature and effect of the proposed amendment and zoning or permit requested;
- (3) A fully scaled map showing:
 - (a) The land affected by the proposed amendment;
 - (b) A legal description of the land;
 - (c) The present zoning classification of the land;
 - (d) The zoning classification of all abutting land; and
 - (e) All public and private rights-of-way and easements bounding and intersecting the land.
- (4) If applicable, the alleged error in this chapter, which would be corrected by the proposed amendment, together with a detailed explanation of such error and how the proposed amendment will correct same;
- (5) The changed or unchanging conditions, if any, in the area or in the municipality generally, which make the proposed amendment reasonably necessary; and
- (6) A statement of all other circumstances, factors and reasons the applicant offers in support of the proposed amendment.

(B) *Time limitation.* If a petition for rezoning is denied by the City Council, another petition for reclassification of the same property or any portion thereof shall not be filed with a period of 12 months from the date of final denial, except with the permission of the City Council.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.159 FEES.

If the application is submitted by other than the City Council or by the Planning and Zoning Commission, the applicant seeking rezoning approval shall pay to the city at the time of submittal a fee to be determined by City Council.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

§ 156.999 PENALTY.

(A) Except as otherwise provided for in this chapter, it shall be unlawful for any person (see definition of "person" in § 156.009 of this chapter) to develop, improve or sell any lot, parcel, tract or block of land within the city's extraterritorial jurisdiction, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this chapter.

(B) (1) *Administrative action.* The city shall enforce this chapter by appropriate administrative action, including, but not limited to, the rejection of plans, maps, plats and specifications not found to be in compliance with this chapter and good engineering practices, and the issuance of stop work orders.

(2) *Court proceedings.* Upon the request of the City Council the City Attorney shall file an action in District Court to enjoin the violation or threatened violation of this chapter, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property established pursuant to this chapter.

(C) In any prosecution charging a violation of this chapter governing the zoning regulations, proof that the property described in the complaint was in violation of any section above, together with proof that the defendant named in the complaint was, at the time of the zoning violation, either the occupant or the registered owner of such property, shall constitute in evidence a prima facie presumption that the owner of such property was the person who knowingly and intentionally committed or permitted the violation for the time during which such violation occurred.

(D) Any person who shall violate any of the provisions of this chapter, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of \$2,000. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Ord. 00-65N, passed 6-1-2005; Ord. 19-255, passed 3-13-2019)

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