

11-5-19

ORDINANCE NO. 31394

An ordinance amending Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code by amending Sections 51A-8.403, 51A-8.404, 51A-8.503, and 51A-8.702; providing requirements for approving a plat or plan filed in connection with the subdivision regulations; providing a clarification that the requirements of Section 51A-8.503(a) are only intended to apply to lots for residential uses; providing semantic changes to ensure consistent usage of terminology in Article VIII; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the Texas Legislature met between January 8, 2019 and May 27, 2019; and

WHEREAS, H.B. 3167 was filed on March 5, 2019; and

WHEREAS, H.B. 3167 established a 30-day time period for approving or disapproving the initial submission of a plat or plan submitted in conjunction with a regulation adopted under Chapter 212 of the Texas Local Government Code and a 15-day time period for approving or disapproving a subsequent submission, as well as other standards; and

WHEREAS, H.B. 3167 requires municipalities to prove by clear and convincing evidence in a legal challenge that the disapproval of a plat application meets the requirements of Subchapter A of Chapter 212 of the Texas Local Government Code or any applicable case law; and

WHEREAS, H.B. 3167 was approved by both chambers of the Texas Legislature; and

WHEREAS, H.B. 3167 was signed by Governor Greg Abbott on June 14, 2019; and

WHEREAS, H.B. 3167 became law on September 1, 2019; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

31394

SECTION 1. That Subsection (a), "Plat Approval Process," of Section 51A-8.403, "Platting Process," of Division 51A-8.400, "Procedures," of Article VIII, "Plat Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended by adding a new Paragraph (1.1), "Resubmission Application," to read as follows:

"(1.1) Resubmission application. An applicant seeking approval of a preliminary plat that was previously disapproved by the commission may submit a resubmission application to the subdivision administrator on a form available at the subdivision administrator's office. If the subdivision administrator determines that the application is complete, the subdivision administrator shall accept it and route it to all affected departments. If the subdivision administrator determines that the application is incomplete, the subdivision administrator shall return it to the applicant with a description of its deficiencies. If the subdivision administrator determines that the resubmitted plat contains changes that are not required to address the commission's reasons for disapproval, the subdivision administrator shall reject the application and the applicant must submit a new preliminary plat application. The resubmitted plat application must be submitted with all required fees and contain the following unless the subdivision administrator determines that an item listed is not applicable and may be omitted:

- (A) A copy of the previously disapproved preliminary plat.
- (B) A copy of the disapproval letter sent by the subdivision administrator.
- (C) An explanation of corrections made on the resubmitted plat to bring the plat in to compliance with the provisions of the Dallas City Code and state or federal law cited in the disapproval letter sent by the subdivision administrator.
- (D) All information required in Paragraph (1)(A)(ii) through (xxvi)."

SECTION 2. That Subparagraph (A) of Paragraph (2), "Staff Review," of Subsection (a), "Plat Approval Process," of Section 51A-8.403, "Platting Process," of Division 51A-8.400, "Procedures," of Article VIII, "Plat Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

“(A) All affected departments shall review the initial preliminary plat application and forward their comments, in writing, to the subdivision administrator within 14 days after the date a complete application is received. (Holiday scheduling may require an extension of the review period.) The subdivision administrator shall formulate a staff recommendation from the comments received in the interdepartmental review process, and submit the initial plat application to the commission within 30 days after the date a complete application is accepted by the city (unless it is an approved administrative plat and the applicant does not appeal any of the conditions). The subdivision administrator shall formulate a staff recommendation and forward a preliminary plat application that has been resubmitted under Subsection (a)(1.1) of this section to the commission with 15 days after the date a complete application is accepted by the city. If the staff recommendation is for disapproval~~[denial]~~ of the application, the subdivision administrator must provide the reasons for disapproval ~~[denial]~~ to the commission.”

SECTION 3. That Paragraph (3), “Commission Action,” of Subsection (a), “Plat Approval Process,” of Section 51A-8.403, “Platting Process,” of Division 51A-8.400, “Procedures,” of Article VIII, “Plat Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(3) Commission action.

(A) Initial application. The commission must hold a public hearing for all replats, and act upon all plat applications, other than approved administrative plats where the conditions are not appealed, within 30 days after the date a complete application is accepted by the city. The commission shall approve the application if it finds that it complies with the policies and purposes of this article. If the commission disapproves ~~[denies]~~ an application, the reasons for disapproval ~~[denial]~~ must be stated in the motion for disapproval, along with a citation to the relevant section of the Dallas City Code or state or federal law ~~[denial]~~.

(B) Resubmission application. If the commission disapproves a plat application under Subparagraph (A), the applicant may file a resubmission application to correct the reasons for disapproval. The commission must hold a public hearing on all resubmitted applications within 15 days after the date a complete resubmission application is accepted by the city. The commission shall approve the application if it finds that it adequately addresses each condition for disapproval of the previous plat application.

SECTION 4. That Paragraph (5), “Action Letter,” of Subsection (a), “Plat Approval Process,” of Section 51A-8.403, “Platting Process,” of Division 51A-8.400, “Procedures,” of Article VIII, “Plat Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(5) Action letter.

(A) Commission-approved plats. Within seven days after the commission action date, the subdivision administrator shall send an action letter to the applicant. If the commission disapproved [~~denied~~] the application, the letter must contain the reasons for disapproval [~~denial~~]. If the commission approved the application, the letter must contain all conditions of approval. The letter must contain a citation to the relevant section of the Dallas City Code or state or federal law for each reason for disapproval or condition of approval.

(B) Administrative plats. Within two days after the subdivision administrator approves an administrative plat, the subdivision administrator shall send an action letter to the applicant with all conditions of approval. The letter must contain a citation to the relevant section of the Dallas City Code or state or federal law for each condition of approval.

SECTION 5. That Section 51A-8.404, "Engineering Plan Approval Procedure," of Division 51A-8.400, "Procedures," of Article VIII, "Plat Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"SEC. 51A-8.404. ENGINEERING PLAN APPROVAL PROCEDURE.

(a) Generally. A person seeking approval of engineering plans for infrastructure must not submit those plans until a preliminary plat has been approved for the property which the infrastructure is to serve. After approval of the preliminary plat, plans for the infrastructure must be submitted to the department. The director shall review the plans submitted under this section for completeness.

- (b) Contents of engineering plans. Plans submitted must include the following:
- (1) All required fees.
 - (2) A completed private development checklist on a form provided by the department. The form must be signed by the professional engineer responsible for the plans.
 - (3) A completed fee receipt on a form approved by the director.
 - (4) Two blueline prints of the approved preliminary plat.
 - (5) Two sets of infrastructure plans.
 - (6) A copy of any specific use permit or planned development district ordinance regulating the property.
 - (7) A copy of any deed restrictions regulating the property in which the city of Dallas is an enforcing party.

(c) Staff review of engineering plans. All affected divisions of the department shall review the engineering plans against the established criteria and forward their comments to the director. Changes or corrections in the design or right-of-way requirements must be itemized and forwarded, in writing, to the responsible engineer and the owner as those persons are reflected on the private development checklist.

(d) Required off-site easements. If off-site easements or rights-of-way are required to accomplish the construction shown in the engineering plans, field notes describing the easements or rights-of-way, sketches showing the required easements or rights-of-way, copies of recorded deeds for all affected property, and agreements from the owners of the off-site property must be submitted before approval of the plans. The agreements are acceptable only if they are from the current owners and were executed less than one year before the time they are submitted.

(e) Director action. The director shall approve, approve with conditions, or disapprove engineering plans within 30 days after the date a complete application is filed under Subsection (b). The director shall not approve engineering plans that do not comply with the requirements of this article, the Dallas City Code, or state and federal law.

(f) Action letter. The director shall send an action letter to the applicant within 30 days after the date a complete application is filed under Subsection (b). If the director disapproved the engineering plans, the letter must contain the reasons for disapproval. If the director approved the engineering plans, the letter must contain all conditions of approval. The letter must contain a citation to the relevant section of the Dallas City Code or state or federal law for each reason for disapproval or condition of approval.

(g) Resubmission application.

(1) If the director approves an engineering plan with conditions or disapproves an engineering plan under Subsection (e), the applicant may file a resubmission application to address the conditions for approval or correct the reasons for disapproval. If the director determines that the application is complete, the director shall accept it and route it to all affected departments. If the director determines that the application is incomplete, the director shall return it to the applicant with a description of its deficiencies. If the director determines that the resubmitted engineering plan contains changes that are not required to address the conditions of approval or reasons for disapproval, or that the resubmitted application creates new conditions that do not comply with this article, the Dallas City Code, or state or federal law, the director shall reject the application and the applicant must submit a new engineering plan application. The director must approve, approve with conditions, or disapprove all resubmitted applications within 15 days after the date a complete resubmission application is accepted by the city. The director shall approve the application if he finds that it adequately addresses each condition for approval or reason for disapproval of the previous engineering plan application.

(2) The resubmission engineering plan application must contain all required fees and the following unless the director determines that an item listed is not applicable and may be omitted:

(A) A copy of the conditionally approved or previously disapproved engineering plan.

(B) A copy of the action letter sent by the director.

(C) An explanation of corrections made on the resubmitted engineering plan to bring the plan in to compliance with the provisions of the Dallas City Code and state or federal law cited in the disapproval letter sent by the director.

(D) All information required in Subsection (b)(2) through (7).

(h) Infrastructure plans approval. Upon approval of the infrastructure engineering plans, the applicant shall be notified by the director and advised of the documents needed to secure a final release from the department.

(i[~~f~~]) Extension of infrastructure plan approval. An extension of the approval of the street paving, storm drainage, bridge, and culvert plans will be considered upon a formal request by the owner to the director of sustainable development and construction. Six-month extensions may be granted only if the conditions surrounding the plat, as well as the standards, criteria, and requirements listed in Section 51A-8.601 do not require a redesign of the infrastructure improvements.”

SECTION 6. That Subsection (a), “Lot Size,” of Section 51A-8.503, “Lots,” of Division 51A-8.500, “Subdivision Layout and Design,” of Article VIII, “Plat Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) Residential l[~~e~~]ot size. The size of each platted lot must comply with the minimum regulations for the zoning district in which the lot is located. Lots must conform in width, depth, and area to the pattern already established in adjacent areas, having due regard to the character of the area, its particular suitability for development, and taking into consideration the natural topography of the ground, drainage, wastewater facilities, and the proposed layout of streets.”

SECTION 7. That Subsection (a), “Generally,” of Section 51A-8.702, “Early Release of Building of Foundation Permit,” of Division 51A-8.700, “Administration,” of Article VIII, “Plat Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) Generally. No building or foundation permit may be issued before the completion and filing for record of a final plat except in accordance with this section. The recipient of an early release permit bears the entire risk that improvements may need to be modified or removed based on engineering plan review or final plat disapproval [~~denial~~]. No certificate of occupancy shall be issued until the final plat is properly filed for record as required by this article and state law, and all conditions of preliminary plat approval and all other applicable rules and regulations have been satisfied.

SECTION 8. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 9. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 10. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 11. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 12. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By 
Assistant City Attorney

Passed DEC 11 2019



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL DEC 11 2019

ORDINANCE NUMBER 31394

DATE PUBLISHED DEC 14 2019

ATTESTED BY: