



**NOTICE OF REGULAR MEETING
CITY OF PILOT POINT
PLANNING AND ZONING COMMISSION**

NOTICE IS HEREBY GIVEN THAT THE PLANNING AND ZONING COMMISSION OF THE CITY OF PILOT POINT, TEXAS, WILL HOLD A REGULAR MEETING ON:

APRIL 1, 2019

AT 6:00 PM

PILOT POINT CITY HALL COUNCIL CHAMBERS
102 E. MAIN STREET PILOT POINT, TEXAS

AGENDA

A. ROLL CALL/CALL TO ORDER

- B. Public Forum:** (Citizens are allowed 3 minutes to speak. If the issue is on the agenda, the Planning and Zoning Commission may choose to discuss and consider the item. If the issue is not on the agenda, the Commission is not permitted by state law to respond to or discuss the item other than to make statements of specific factual information in response to a citizen's inquiry or to recite existing policy in response to the inquiry. The Commission may request the issue to be placed on a future agenda for action in accordance with state law. This forum is not the appropriate place to address complaints against Public Officials and/or Staff. Complaints of this nature should be made in writing and filed with the City Manager.)
- C. Discuss, consider, and possible action on the approval of the March 4, 2019 Planning and Zoning Commission meeting minutes.**
- D. Public hearing on an ordinance amendment to Chapter 14: Zoning regarding Section 14.02.107 Accessory Building and Use Regulations, of the Code of Ordinances of the City of Pilot Point, Denton County, Texas.**
- E. Discuss, consider, and possible action on making a recommendation on an ordinance amendment to Chapter 14: Zoning regarding Section 14.02.107 Accessory Building and Use Regulations, of the Code of Ordinances of the City of Pilot Point, Denton County, Texas.**
- F. Public hearing on an ordinance amendment to the City of Pilot Point Code of Ordinances, Article 10.02 "Subdivision Ordinance"; Division 3. "Plat Procedures, Standards, and Specifications" and Division 4. "Subdivider's Agreement and Construction Contracts for Public Improvements", of the Code of Ordinances of the City of Pilot Point, Denton County, Texas.**
- G. Discuss, consider, and possible action on making a recommendation on an ordinance amendment to the City of Pilot Point Code of Ordinances, Article 10.02 "Subdivision Ordinance"; Division 3. "Plat Procedures, Standards, and Specifications" and Division 4. "Subdivider's Agreement and Construction Contracts for Public Improvements", of the Code of Ordinances of the City of Pilot Point, Denton County, Texas.**
- H. Items for Future Discussion - The Planning & Zoning Commission may identify issues or topics that they wish to schedule for discussion at a future meeting.**

I. Adjourn

The Planning & Zoning Commission reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including §551.071 (private consultation with the attorney for the City); §551.072 (discussing purchase, exchange, lease or value of real property); §551.074 (discussing personnel or to hear complaints against personnel); and §551.087 (discussing economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

In compliance with the Americans with Disabilities Act, the City of Pilot Point will provide reasonable accommodations for disabled persons attending this meeting. Requests should be received at least 24 hours prior to the scheduled meeting by contacting the City Secretary's office at 940-686-2165.

I the undersigned authority do hereby certify this notice was posted on the official bulletin board for the City of Pilot Point, Texas on **March 29, 2019 by 5:00 p.m.**, and shall remain posted for at least 72 hours preceding the scheduled time of said meeting.


Alice Holloway, City Secretary



Planning and Zoning Commission Agenda April 1, 2019

Agenda Item: Accessory Structure (Public Hearing)

Agenda Description:

Public hearing on an ordinance amendment to Chapter 14: Zoning regarding Section 14.02.107 Accessory Building and Use Regulations, of the Code of Ordinances of the City of Pilot Point, Denton County, Texas.

Background Information:

The accessory structure ordinance was adopted by the City Council in 2018. The ordinance presently presents several contradictions which affect the administration of the regulations for accessory buildings. In addition, the ordinance does not address shipping or cargo containers used as accessory buildings.

The Planning and Zoning Commission held a workshop on the ordinance on March 4, 2019. The attached ordinance draft reflects the comments and opinions from that meeting. The following outlines the **changes** proposed in the ordinance: (only changes are included in this review)

- a. The ordinance uses the terms buildings and structures interchangeably. The ordinance has been made to use the term “structures” consistently
- b. The accessory building ordinance provides two regulations for limiting the size of an accessory structure. The total square footage of all accessory buildings may not be over 25% of the rear yard. However, there were two definitions in the code for how a rear yard is measured. The proposed change makes it clear that a rear yard is measured from the rear of the primary structure and not the required rear yard setback.
- c. Ordinance was cleaned up to be easier to read and outdated terms were changed i.e. servant changed to caretaker.
- d. An Accessory Dwelling may not be bigger than 50% of the primary structure but the minimum dwelling size is 1,000 square feet so you would have to have a minimum of a 2,000 sq. ft. house to build an Accessory Dwelling Unit. The draft removes the minimum unit size for an Accessory Dwelling Unit.
- e. Temporary Storage Units were not addressed so a new section was added which permits them on residential property not to exceed seven days and allows them in the front setback.

Any use greater than seven days requires a permit and is limited in time to the related permit for construction, remodel or repair in effect on the property.

- f. Clarification that no one accessory structure may be larger than 50% of the primary structure.
- g. Clarification that metal is allowed on accessory structures if certain listed conditions are met.
- h. Clarification that the setback for accessory structures is five feet from rear or side property lines except carports or detached garages the setback is eight feet from side or rear property lines. Old ordinance stated this and that they had to meet the setbacks of the primary structure.
- i. Steel Shipping or Cargo containers are not addressed in the current ordinance. A new section has been added. Shipping containers are not allowed as accessory structures in residential districts. And they are only allowed in nonresidential districts with the following conditions:
 - a. are screened from view of any right-of-way or adjacent property
 - b. are painted to match the primary structure
 - c. are maintained to be free from rust.
 - d. meet all accessory structure setbacks
 - e. are placed on an all-weather surface and secured to the ground
- j. Any existing Shipping or Cargo Container in the city prior to the date of this ordinance must be removed or brought up to this code within 12 months of the adoption of this ordinance.

Financial Information:

N/A

City Contact and Recommendations:

John Taylor, Development Services Director

Calvin Manuel, Deputy Development Services Director

Attachments:

1. Section 14.02.107 Accessory Buildings and Use Regulations

CITY OF PILOT POINT, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PILOT POINT, TEXAS AMENDING CHAPTER 14 ZONING OF THE CITY'S CODE OF ORDINANCES REGARDING ACCESSORY STRUCTURE REQUIREMENTS; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City of Pilot Point, Texas finds it is in the best interest of its citizens and promotes the health, safety and welfare of the public of the City of Pilot Point and its citizens to regulate building of accessory buildings;

WHEREAS, the City of Pilot Point, Texas determined that consideration should be given to amending Article 4.02, Zoning Ordinance of the Code of Ordinances regarding accessory structures;

WHEREAS, the Planning and Zoning Commission of the City of Pilot Point, and the City Council of Pilot Point, in compliance with the laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all persons interested, and the City Council of the City of Pilot Point is of the opinion and finds that Chapter 14, Zoning of the Code of Ordinances should be amended

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PILOT POINT, TEXAS:

**SECTION 1
INCORPORATION OF PREMISES**

That the above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2
APPLICATION**

The City Code Article 14 "Zoning Ordinance" shall be amended to read as indicated in Exhibit A.

**SECTION 3
CUMULATIVE REPEALER CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances of the City of Pilot Point, Texas, and shall not repeal any of the provisions of said ordinances except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict. All other provisions of ordinances of the City of Pilot Point, Texas not in direct conflict with this ordinance shall remain in full force and effect.

**SECTION 4
SAVINGS CLAUSE**

All rights and remedies of the City of Pilot Point, Texas are expressly saved as to any and all violations of the provisions of any other ordinance, which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

**SECTION 5
SEVERABILITY**

The sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this ordinance or application thereof to any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares that it would have passed such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 6
PENALTY**

Any person, firm, or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, in the municipal court of the City of Pilot Point, Texas shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every such violation shall be deemed to constitute a separate offense.

**SECTION 7
EFFECTIVE DATE**

The City Secretary of the City of Pilot Point, Texas, is hereby directed to publish in the Official Newspaper of the City of Pilot Point, the Caption and Effective Date clause of this Ordinance as required by Section 52.013 of the Texas Local Government Code.

PASSED and APPROVED by the City Council of the City of Pilot Point, Texas this the 8th day of April 2019.

Shea Dane-Patterson, Mayor

ATTEST:

Alice Holloway, City Secretary

EXHIBIT A

Sec. 14.02.107 Accessory ~~buildings-structures~~ and use regulations

(a) Residential districts. In a residential zoning district, an accessory ~~building structure~~ is a subordinate or incidental ~~building-structure~~ not used for commercial purposes and not rented. Accessory ~~buildings-structure~~ shall not be permitted without a main building or primary use being in existence. Accessory ~~buildings structure~~ shall be located toward the rear portion of the property and shall not exceed the height of the primary or main structure. The height of a structure is measured from the finished grade to the peak of the roof.

(1) There is no restriction on the number of accessory structures in a residential district. However, the maximum area of all accessory structures on a lot in a residential district is limited to twenty-five (25) percent of the lot's rear yard as defined ~~in section 14.02.002 as a yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear lot line and the main building.~~

(2) Accessory dwellings. Accessory dwellings, including garage accessory dwellings and detached units, may be permitted in residential zoning districts ~~and shall conform to the height limitations of the main structure. (See regulations for the specific district and the use charts.) No such accessory dwelling or quarters shall be used or occupied as a residence by anyone other than a family member, caretaker, servant, or farm worker actually and regularly employed by the landowner or occupant of the main building, or a guest of the owner or occupant. Only one accessory dwelling unit, including a garage accessory dwelling, shall be allowed on any lot within a residential zoning district, and they shall be clearly incidental to the primary use.~~

~~(3)~~ Accessory dwelling units shall be allowed as an incidental residential use of a building on the same lot as the main dwelling unit and used by the resident or residents of the main building, and shall meet the following standards:

~~(A) No such accessory dwelling or quarters shall be used or occupied as a residence by anyone other than a family member, caretaker, or farm worker actually and regularly employed by the landowner or occupant of the main building, or a guest of the owner or occupant.~~

~~(B) Only one accessory dwelling unit, including a garage accessory dwelling, shall be allowed on any lot within a residential zoning district, and they shall be clearly incidental to the primary use.~~

(A) An accessory dwelling is only allowed on lots that are greater than one-quarter (1/4) acre in area;

(B) An accessory dwelling unit must be constructed to the rear of the main dwelling, separate from the main dwelling;

(C) An accessory dwelling unit shall be no larger than 50% of the floor area of the main building ~~but may be smaller than the minimum dwelling size;~~

(D) An accessory dwelling unit may be constructed only with the

issuance of a building ~~permit, and permit and~~ shall be constructed of the same material and in the same architectural design as that of the main building. Maximum height limitations of the primary structure must not be exceeded. Metal buildings are prohibited;

(E) An accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be leased or rented;

(F) Setback requirements shall be the same as for the main or primary structure;

(G) An accessory dwelling is not permitted without the main or primary structure; and

(H) Utility services shall be metered by the same utility meter as those serving the main structure on the premises.

(3) Temporary Personal Storage Units – For the purpose of this section, temporary personal storage unit shall mean any container designed for the temporary storage of property. Such temporary storage units are typically rented to occupants of property for their storage use on a temporary basis and are typically delivered and removed by truck and/or trailer.

(A) Permit Required (residential)

i) When a personal storage unit is placed on residential property for a time period not to exceed seven (7) days, no permit is required. The personal storage unit may be located in front of the required setback.

ii) When a personal storage unit is placed on residential property for a time period of greater than seven (7) days and a building permit for construction, remodel and/or repair of the main structure is in effect, the personal storage unit may remain as long as the building permit is in effect for the property. The personal storage unit may not be delivered until the building permit is issued. The personal storage unit must be removed when the work for which the building permit was issued is complete or when the building permit becomes no longer valid, whichever occurs first.

iii) No more than one (1) personal storage unit per dwelling unit shall be permitted to be placed on a single-family or two-family residential property.

(b) Accessory buildings-structures in general.

(1) Regardless of the rear yard calculation, tThe maximum size of any one accessory building-structure shall be not more than 50% of the floor area of the primary or main building.

(2) Accessory buildings-structures shall have an exterior siding of brick, stone, stucco, wood, or cementitious fiber board and must be of a color palette which matches or complements the main structure. Horizontal metal siding units may be used, however R-panel metal siding or Ggalvanized metal

siding ~~are is~~ prohibited however, metal siding is allowed with the following standards. All accessory structures must be of a color palette which matches or complements the main structure.

~~(3)~~ Metal buildings must meet the following standards to be permitted:

(A) Must have a pre-installed finish (paint).

(B) Must have raised or standing seams.

(C) Must have a corner trim.

(D) Commercial shipping containers are not allowed as accessory structures in residential districts.

(34) The following regulations shall govern the location, size, and use of all accessory ~~buildings~~structures.

(A) An accessory ~~building~~structure that is less than or equal to 200 square feet in size shall not be required to have a building permit but must meet setback requirements as stated for accessory structures.

(B) An accessory ~~building~~structure that is greater than 200 square feet in size shall be required to have a building permit and be inspected by the city.

~~(C) Accessory structures shall abide by the setbacks of the primary structure and shall not conflict with site features such as fire lanes, landscape buffers, required parking, and other issues deemed pertinent by the director.~~

~~(CD)~~ Accessory ~~buildings~~structures shall not be located within an easement or right-of-way or in any required front yard setback area.

~~(D2) No accessory building shall be erected within ten feet (10') of any other building, except detached residential garages may be located within five feet (5') of the main dwelling and except as the provisions of subsection (f)(5) of this section are met.~~

~~(E3) No detached residential garage or carport shall be erected or placed closer to any street or alley right-of-way line than the minimum yard requirements (building setback line) governing the district in which such garage or carport is located.~~

~~(F4) No detached residential garage or carport shall be erected or placed within eight feet (8') from any side lot line.~~

(G) No accessory structure shall be erected or placed within five feet (5') of any side or rear lot line and shall not encroach upon any easement.

(4E) The following items are required in order to be approved for an accessory ~~building~~structure permit.

(AF) A scaled site plan, detailing property lines, existing and proposed buildings, and property setbacks.

(BG) Scaled building elevations, detailing the materials and colors being used.

(CH) Sites containing an OSSF (on-site septic system field) may require the approval of the building official prior to permit approval.

(5f) Adjacent to greenbelts. An accessory building-structure which is proposed for a lot or tract of land which is directly adjacent to and visible from a public or private greenway, golf course, park, playground or other community open space amenity shall observe a setback requirement equal to the setback requirement for the main structure on the same lot.

(6) Steel Shipping (Cargo) Containers

(A) Steel Shipping Containers consist primarily of steel exterior, are manufactured to transport goods, have external measurements of twenty (20) or forty (40) feet in length by eight (8) feet six inches in height by eight (8) feet in width.

(B) Steel Shipping Containers are prohibited in any residential zoning district.

(C) Steel Shipping Containers are prohibited in any non-residential zoning district unless they meet the following:

i) are screened from view of any right-of-way or adjacent property

ii) are painted to match the primary structure

iii) are maintained to be free from rust.

iv) meet all accessory structure setbacks

(v) are placed on an all-weather surface and secured to the ground

(D) Any existing Shipping or Cargo Container in the city prior to the date of this ordinance must be removed or brought up to this code within 12 months of the adoption of this ordinance.

(c) Nonresidential zoning districts. In nonresidential zoning districts, an accessory building is a subordinate building, the use of which is secondary to and supportive of the main building. Accessory buildings shall not be permitted without a main building or primary use being in existence. Accessory buildings should, whenever possible, be located toward the rear portion of the property, and shall be constructed of the same material and in the same architectural design as that of the main building.

(1) Accessory buildings in nonresidential zoning districts shall not exceed the maximum height allowed in the specific zoning district. The height of a structure is measured from the finished grade to the peak of the roof.

(2) In nonresidential zoning districts, the maximum size of an accessory building shall be not more than 50% of the floor area of the main building.

(3G) Accessory structures shall abide by the setbacks of the primary structure and shall not conflict with site features such as fire lanes, landscape buffers, required parking, and other issues deemed pertinent by the director.

(d) Barns. Barn for the purpose of this article shall be defined as a structure intended to provide shelter to livestock and for the storage of products, equipment and supplies related to the production of livestock and farming. Barns shall not be considered accessory buildings-structures and shall be only allowed on lots or tracts

in excess of two (2) acres ~~only~~ and shall conform to the following:

- (1) Barns on lots ~~two to less than~~ three acres.
 - (A) Maximum size shall be 1,000 square feet.
 - (B) Shall not be allowed without a main building.
 - (C) A limit of one (1) barn per lot or tract.
 - (D) Shall have a minimum setback from side and rear property lines of twenty-five feet.
 - (E) The maximum height is the same as the maximum height of the primary structure~~limited to that of the main building.~~
- (2) Barns on lots ~~over three to five~~ acres.
 - (A) Maximum size shall be 2,000 square feet.
 - (B) Shall be allowed without a main building.
 - (C) A limit of one (1) barn per ~~lot or tract~~ five acres.
 - (D) Shall have a minimum setback from side and rear property lines of twenty-five feet.
 - (E) The maximum height is the same as the maximum height of a primary structure~~limited to that of the main building.~~
- (3) Facade materials. Any barn facade shall be constructed from wood, masonry or ~~metal~~steel materials.

(e) Swimming pools and Jacuzzi/hot tubs. Shall not be located in the front yard area, shall comply with the minimum side yard and corner lot requirements for accessory structures; and be a minimum five-foot setback from an interior side yard or rear yard property line.

~~(f) The following regulations shall govern the location, size, and use of any accessory buildings:~~

~~(1) No accessory building shall be erected in any required yard area as stipulated in this part, except as allowed in the following subsections.~~

~~(2) No accessory building shall be erected within ten feet (10') of any other building, except detached residential garages may be located within five feet (5') of the main dwelling and except as the provisions of subsection (f)(5) of this section are met.~~

~~(3) No detached residential garage or carport shall be erected or placed closer to any street or alley right of way line than the minimum yard requirements (building setback line) governing the district in which such garage or carport is located.~~

~~(4) No detached residential garage or carport shall be erected or placed within eight feet (8') from any side lot line.~~

~~(5) Residential accessory buildings and sheds housing domestic lawn and garden equipment and all other household effects may be detached or attached to the main building, but shall not encroach in any required front yard and may not occupy more than thirty percent (30%) of the rear yard.~~

~~(6) No accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises, as provided in the applicable zoning~~

district.

~~(7) — No accessory building shall be higher than the main building and in no case be in excess of eighteen feet (18') in height.~~

~~(8) — No accessory building shall be erected or placed within five feet (5') of any side or rear lot line and shall not encroach upon any easement.~~

(Ordinance 353-12-2018, ex. A, adopted 2/26/18)



Planning and Zoning Commission Agenda April 1, 2019

Agenda Item: Accessory Structure (Decision Item)

Agenda Description:

Consider and act on making a recommendation on an ordinance amendment to Chapter 14: Zoning regarding Section 14.02.107 Accessory Building and Use Regulations, of the Code of Ordinances of the City of Pilot Point, Denton County, Texas.

Background Information:

The accessory structure ordinance was adopted by the City Council in 2018. The ordinance presently presents several contradictions which affect the administration of the regulations for accessory buildings. In addition, the ordinance does not address shipping or cargo containers used as accessory buildings.

The Planning and Zoning Commission held a workshop on the ordinance on March 4, 2019. The attached ordinance draft reflects the comments and opinions from that meeting. The following outlines the **changes** proposed in the ordinance: (only changes are included in this review)

- a. The ordinance uses the terms buildings and structures interchangeably. The ordinance has been made to use the term “structures” consistently
- b. The accessory building ordinance provides two regulations for limiting the size of an accessory structure. The total square footage of all accessory buildings may not be over 25% of the rear yard. However, there were two definitions in the code for how a rear yard is measured. The proposed change makes it clear that a rear yard is measured from the rear of the primary structure and not the required rear yard setback.
- c. Ordinance was cleaned up to be easier to read and outdated terms were changed i.e. servant changed to caretaker.
- d. An Accessory Dwelling may not be bigger than 50% of the primary structure but the minimum dwelling size is 1,000 square feet so you would have to have a minimum of a 2,000 sq. ft. house to build an Accessory Dwelling Unit. The draft removes the minimum unit size for an Accessory Dwelling Unit.
- e. Temporary Storage Units were not addressed so a new section was added which permits them on residential property not to exceed seven days and allows them in the front setback.

Any use greater than seven days requires a permit and is limited in time to the related permit for construction, remodel or repair in effect on the property.

- f. Clarification that no one accessory structure may be larger than 50% of the primary structure.
- g. Clarification that metal is allowed on accessory structures if certain listed conditions are met.
- h. Clarification that the setback for accessory structures is five feet from rear or side property lines except carports or detached garages the setback is eight feet from side or rear property lines. Old ordinance stated this and that they had to meet the setbacks of the primary structure.
- i. Steel Shipping or Cargo containers are not addressed in the current ordinance. A new section has been added. Shipping containers are not allowed as accessory structures in residential districts. And they are only allowed in nonresidential districts with the following conditions:
 - a. are screened from view of any right-of-way or adjacent property
 - b. are painted to match the primary structure
 - c. are maintained to be free from rust.
 - d. meet all accessory structure setbacks
 - e. are placed on an all-weather surface and secured to the ground
- j. Any existing Shipping or Cargo Container in the city prior to the date of this ordinance must be removed or brought up to this code within 12 months of the adoption of this ordinance.

Financial Information:

N/A

City Contact and Recommendations:

John Taylor, Development Services Director

Calvin Manuel, Deputy Development Services Director

Attachments:

1. Section 14.02.107 Accessory Buildings and Use Regulations



Planning and Zoning Commission April 1, 2019

Agenda Item: Public Hearing (Discussion)

Agenda Description:

Hold a Public Hearing on an Ordinance to amend Article 10.02 “Subdivision Ordinance”; Division 3. “Plat Procedures, Standards, and Specifications” and Division 4. “Subdivider’s Agreement and Construction Contracts for Public Improvements”, of the Code of Ordinances of the city of Pilot Point, Denton County, Texas.

Background Information:

The Subdivision Rules and Regulations currently require the city to record a Final Plat with the County within 10 days of it being approved by the city council. This action creates legal lots that can then be sold. If there is required infrastructure like streets and utilities to be installed by the developer, they would do this after the lots have been created.

To ensure that the proposed infrastructure is installed as approved, the city requires a Subdivider’s Agreement and performance bond or letter of credit. If for some reason the developer fails to install the public infrastructure the city may step in and build the infrastructure using the proceeds from the bond or letter of credit. This process creates a need for additional legal paperwork and additional cost to the developer.

Some cities, like Celina, go in a different direction and will not record the approved Final Plat until the infrastructure is completed and accepted by the City Council. This way there will never be an instance of legal lots being created by a Final Plat and streets and utilities never being constructed. This also removes the requirement for the Subdivider’s Agreement and the related surety. However, it also makes it to where the developer cannot close on these new lots prior to the infrastructure being completed. They would still be able to take deposits and reservations on lots.

To be as flexible as possible Celina offers the developer a choice of holding off on the recording of the Final Plat or going ahead and recording the plat which would then require the Subdivider’s Agreement and surety.

It is this model that is proposed in the attached Ordinance. The developer of Lakeview Estates, who recently had the Final Plat approved, desires to hold off on the recording of the plat until after the infrastructure is accepted by the city council. This ordinance amendment would facilitate that desire.

Financial Information:

N/A

City Contact and Recommendations:

John Taylor, Development Services Director

Calvin Manuel, Deputy Development Services Director

Staff recommends approval of the proposed ordinance revision.

Attachments:

1. Ordinance Draft

**CITY OF PILOT POINT, TEXAS
ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY OF PILOT POINT, TEXAS, AMENDING THE PILOT POINT CITY CODE, ARTICLE 10.02 “SUBDIVISION ORDINANCE”; DIVISION 3. “PLAT PROCEDURES, STANDARDS, AND SPECIFICATIONS AND DIVISION 4. “SUBDIVIDER’S AGREEMENT AND CONSTRUCTION CONTRACTS FOR PUBLIC IMPROVEMENTS”, PROVIDING FOR A CUMULATIVE REPEALER CLAUSE, PROVIDING A SAVINGS CLAUSE, PROVIDING A SEVERABILITY CLAUSE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pilot Point, Texas has determined that the timing of subdivision plat recordings and the resulting creation of legal lots must be dependent on the construction of required infrastructure or the assurance thereof;

WHEREAS, the City Council believes that providing flexibility in the method of ensuring the completion of any required infrastructure benefits the future growth and development of the city;

WHEREAS, the City Council of the City of Pilot Point, Texas has determined that it is in the best interest of the citizens of Pilot Point to require the completion of any required infrastructure prior to the recording of a final plat;

WHEREAS, the City Council of the City of Pilot Point, Texas has determined that the existing Subdivision Ordinance of the City should be amended as hereinafter set out.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PILOT POINT, TEXAS:

**SECTION 1
INCORPORATION OF PREMISES**

That the above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2
APPLICATION**

The City Code Article 10.02 “Subdivision Ordinance” shall be amended to read as indicated in Exhibit A.

**SECTION 3
CUMULATIVE REPEALER CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances of the City of Pilot Point, Texas, and shall not repeal any of the provisions of said ordinances except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict. All other provisions of ordinances of the City of Pilot Point, Texas not in direct conflict with this ordinance shall remain in full force and effect.

**SECTION 4
SAVINGS CLAUSE**

All rights and remedies of the City of Pilot Point, Texas are expressly saved as to any and all violations of the

provisions of any other ordinance, which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

**SECTION 5
SEVERABILITY**

The sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this ordinance or application thereof to any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares that it would have passed such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 6
EFFECTIVE DATE**

The City Secretary of the City of Pilot Point, Texas, is hereby directed to publish in the Official Newspaper of the City of Pilot Point, the Caption and Effective Date clause of this Ordinance as required by Section 52.013 of the Texas Local Government Code.

PASSED AND APPROVED by the City Council of the City of Pilot Point, Texas this the 8th day of April 2019.

SHEA DANE-PATTERSON, MAYOR

ATTEST:

ALICE HOLLOWAY, CITY SECRETARY

EXHIBIT A

ARTICLE 10.02 SUBDIVISION ORDINANCE

Division 3. Plat Procedures, Standards, and Specifications

Sec. 10.02.065.1 Timing of public improvements

(a) Completion prior to final plat recordation. Completion of all required public improvements, in accordance with the approved final plat and the approved construction plans, shall occur prior to final plat recordation with Denton, Cooke or Grayson County. Final plat exhibits will not be accepted for filing with the county prior to completion of such improvements except as provided below.

(b) Completion after final plat recordation. The director of development services, upon written request by the applicant, may allow construction of public improvements after final plat recordation. Such postponement shall be conditioned on execution of a Subdivider's agreement and provision of security, as defined in Sec. 10.02.092. It shall be at the director of development services discretion to determine whether postponing construction of public improvements until after final plat recordation is appropriate, and therefore, whether financial guarantee is acceptable through a subdivider's agreement.

(c) Deferral of obligation. The director of development services may defer the developer's obligation to dedicate rights-of-way or easements for, or to construct, public improvements to serve a new development upon execution of a subdivider's agreement and upon provision of adequate security, as defined in Sec 10.02.092.

(d) Phased development. If the development is being platted and constructed in phases, improvements shall be completed as platted areas are approved and phases are constructed.

(e) Easements for utility providers. The applicant is responsible for contacting all utility providers prior to beginning construction, and for securing all necessary easements for same prior to final plat approval and recordation. The applicant's engineer shall provide the director of development services with written certification that all necessary easements are secured for the various utility providers, and such easements shall be shown on the final plat with the recording information for each (if previously platted) or established through the recordation of the final plat.

(f) Off-site easements. All necessary off-site easements required for installation of required off-site public improvements to serve the development shall be acquired by the applicant prior to the pre-construction meeting, or prior to approval and recordation of the final plat, whichever occurs first. Off-site easements shall be conveyed and recorded in Denton, Cooke or Grayson County by filing the off-site easement in a conveyance plat prior to filing the final plat. At the discretion of the director of development services, a separate instrument may be used for the purposes of recording off-site easements. If the property on which the off-site easement is required has been platted prior to the granting of the easement, a replat is required to dedicate the easement.

(g) Oversized facilities. When the city sees fit to request that the developer upsize any required infrastructure for the use of future development within the city, the difference in cost of the required infrastructure for the development and the cost of upsizing may be borne by the city.

Sec. 10.02.066 Signing and recording of subdivision plat

(a) Signing of plat.

(1) The chairman of the planning and zoning commission and the mayor shall sign all copies of the approved final plat.

(2) If public improvements are to be installed and the final plat is recorded prior to construction a surety will be required, the chairman of the planning and zoning commission

and the mayor shall endorse approval only after the subdivider's agreement has been approved by the city council, and the city attorney certifies that surety requirements have been met.

(3) The signature of the chairman of the planning and zoning commission and the mayor indicate approval of the platting of the land, not the improvements to be placed thereon.

(b) Recording of plat.

(1) It shall be the responsibility of the director of development services ~~city manager~~ or designee to file the plat with the county clerk's office either after the infrastructure has been accepted by the city council and maintenance bond has been accepted or after the plat has been approved and a Subdivider's Agreement with surety has been approved by ~~c~~City Council~~council~~.

(2) A copy of the approved plat with all signatures shall be returned to the applicant. Additional copies can be provided upon prior arrangement with the city manager or designee.

Division 4. Subdivider's Agreement, Financial Assurance and Construction Contracts for Public Improvements

Sec. 10.02.091 Procedures for Recording a Plat with infrastructure prior to City Council acceptance of that infrastructure

(a) Contract required. The owner shall be required to execute a subdivider's agreement as a condition of plat approval whenever the installation of community facilities or public improvements is required. The city attorney shall prepare the subdivider's agreement after the final engineering plans and cost estimates have been approved. Samples of subdivider's agreements and bond instruments are available upon request.

(b) Approval of contract.

(1) After the contract has been signed by the developer and the required performance bond, payment bond, surety, or irrevocable letters of credit, and maintenance bonds meeting the requirements of Texas Local Government Code have been posted with the city, the city secretary or designee shall forward the subdivider's agreement to the city attorney and the city planner for review and approval.

(2) The mayor shall review and sign the contract on behalf of the city after receiving comments of the city attorney and the development review committee and upon approval by the city council.

(3) If any special provisions or deviations from established policies are included in the contract, specific approval of only the special provisions or deviations by the city council is required.

(4) No construction work shall begin on the subdivision before the subdivider's agreement is approved and signed by the mayor. This provision shall preclude the moving of dirt except in conditions covered in other development regulations.

(5) The city will use its best effort to expedite all necessary instruments and documents within the city administration.

(c) Changes in contract. Any subsequent changes in the plans and specifications of the approved project proposed by the developer shall necessitate an amendment to the subdivider's agreement and amendments to all required financial assurance instruments. An increase in the project scope shall also require increase in the inspection fee, as authorized in section 10.02.093(a) of this division. The developer shall bear the full cost of any additional work required by the city attorney and/or city engineer in revising and/or reviewing the revised documents and

approval shall not be granted until such additional fees are paid.

Sec. 10.02.092 Performance bonds and maintenance bonds

(a) Performance bonds, sureties or irrevocable letters of credit in forms provided by the city attorney meeting the requirements of Texas Local Government Code shall be required for any required public improvements or community facilities to be constructed prior to the filing of the final plat ~~and issuing of any building permits~~. Bonding companies must be licensed in the state. Bonds, irrevocable letters of credit, certificates of deposit or cash deposits will be for one hundred percent (100%) of the value, as determined by the city engineer, of the construction costs of all facilities to be constructed by the developer.

(1) A cash deposit maybe made with the city in lieu of the performance bond. The cash deposit shall be held by the city in a regular insured savings account and shall accrue interest at the current regular savings account rate of interest. Interest shall accrue in the account to the benefit of the subdivider and shall be returned to the developer with the cash deposit upon satisfactory completion of the facilities and acceptance by the city.

(2) A certificate of deposit issued by any financial institution, which is insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation, shall be held in the city depository in lieu of the performance bond. When this option is exercised the subdivider shall execute four (4) copies of a letter (approved by the city) assigning the deposit to the city and providing for the city to withdraw the deposit if ~~necessary~~necessary, to complete construction. Such letter of assignment must be accepted in writing by the financial institution. Upon satisfactory completion of the facilities for which the deposit is made as security, the city shall reassign the deposit to the developer including accrued interest or dividends thereon.

(3) When the option is exercised to provide an irrevocable letter of credit from a financial institution, the form of the letter shall be approved by the city attorney. The international letter of credit form used by banks is normally acceptable.

(b) Prior to the acceptance of infrastructure by the city council ~~t~~The developer shall provide a maintenance bond meeting the requirements of Texas Local Government Code guaranteeing and agreeing to pay any necessary maintenance for a period of two (2) years in an amount equal to one hundred percent (100%) of the value of the construction costs of all facilities to be constructed by the developer. The same conditions shall prevail as under subsection (a) of this section when certificates of deposit, irrevocable letters of credit or cash deposits are used instead of surety company bonds.



Planning and Zoning Commission April 1, 2019

Agenda Item: Ordinance (Action Item)

Agenda Description:

Discuss, consider, and possible action on an Ordinance to amend Article 10.02 “Subdivision Ordinance”; Division 3. “Plat Procedures, Standards, and Specifications” and Division 4. “Subdivider’s Agreement and Construction Contracts for Public Improvements”, of the Code of Ordinances of the city of Pilot Point, Denton County, Texas.

Background Information:

The Subdivision Rules and Regulations currently require the city to record a Final Plat with the County within 10 days of it being approved by the city council. This action creates legal lots that can then be sold. If there is required infrastructure like streets and utilities to be installed by the developer, they would do this after the lots have been created.

To ensure that the proposed infrastructure is installed as approved, the city requires a Subdivider’s Agreement and performance bond or letter of credit. If for some reason the developer fails to install the public infrastructure the city may step in and build the infrastructure using the proceeds from the bond or letter of credit. This process creates a need for additional legal paperwork and additional cost to the developer.

Some cities, like Celina, go in a different direction and will not record the approved Final Plat until the infrastructure is completed and accepted by the City Council. This way there will never be an instance of legal lots being created by a Final Plat and streets and utilities never being constructed. This also removes the requirement for the Subdivider’s Agreement and the related surety. However, it also makes it to where the developer cannot close on these new lots prior to the infrastructure being completed. They would still be able to take deposits and reservations on lots.

To be as flexible as possible Celina offers the developer a choice of holding off on the recording of the Final Plat or going ahead and recording the plat which would then require the Subdivider’s Agreement and surety.

It is this model that is proposed in the attached Ordinance. The developer of Lakeview Estates, who recently had the Final Plat approved, desires to hold off on the recording of the plat until after the infrastructure is accepted by the city council. This ordinance amendment would facilitate that desire.

Financial Information:

N/A

City Contact and Recommendations:

John Taylor, Development Services Director

Calvin Manuel, Deputy Development Services Director

Staff recommends approval of the proposed ordinance revision.

Attachments:

1. Ordinance Draft