

**ORDINANCE NO. 1238-2019**

**AN ORDINANCE AMENDING CHAPTER 10 "SUBDIVISIONS" REVISING THE SUBDIVISION ORDINANCE SPECIFICALLY IN ARTICLE 36 "SHORT FORM PLAT" INCORPORATING SECTION 36-103 "APPROVAL OF CERTAIN PLATS", SECTION 36-104 "ELECTION TO APPROVE", AND SECTION 36-105 "REFUSAL TO APPROVE PLAT" AND ALSO IN ARTICLE 38 "AMENDING A PLAT" REVISING SECTION 38-100 CHANGING FROM CITY COUNCIL TO PUBLIC WORKS DIRECTOR AND INCORPORATING SECTION 38-103 "ELECTION TO APPROVE" AND SECTION 38-104 "REFUSAL TO APPROVE PLAT"; PROVIDING THAT THE PUBLIC WORKS DIRECTOR MAY APPROVE CERTAIN MINOR OR AMENDING PLATS PROVIDING THAT THIS ORDINANCE BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of River Oaks is a home rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS, the City Council** now desires to amend Chapter 10 "Subdivisions" of the River Oaks Code of Ordinances (2006) as amended for the purpose of authorizing the Public Works Director to approve certain minor plats; and

**WHEREAS**, the Planning and Zoning Commission of the City of River Oaks, Texas held a public hearing on July 15, 2019 and the City Council of the City of River Oaks, Texas held a public hearing on July 23, 2019 with respect to the amendments described herein; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City of River Oaks, Texas to amend said subdivision ordinance to authorize the public works director to approve certain minor plats with the exception that the public works director may, for any reason, elect to present the plat for approval to the municipal authority responsible for approving plats and shall not disapprove any plat, but shall be required to refer any plat which he refuses to approve to the municipal authority responsible for approving plats within the time period specified in section 212.009 of the Texas Local Government Code.

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

**SECTION 1**

Chapter 10, "Subdivisions," of the Code of Ordinances, City of River Oaks, Texas is amended to read as set forth herein:

**"Art. 36. Short Form Plat**

**36-100** To facilitate the Plat approval process in those instances (including minor street dedication, easement dedication and replats) where the highly formalized Standard Form approval procedure is obviously not necessary for an understanding of a given development process or the effects and implications thereof, or for the protection of proximate individual interest, or for the protection and guidance of community interests, or for the protection and guidance of community development as a whole, the Short Form Plat approval procedure may be applicable when the following conditions have been met:

1. The Short Form Plat and supporting instruments are respectively drawn and compiled in compliance with the requirements for a Final Plat.
2. The Short Form Plat and supporting instruments or subdivision they represent are not otherwise in contravention with Chapter 212, Local Government Code.
3. Each lot and block has frontage upon a dedicated and improved street to City specifications.
4. All easements to each block, or lot have been previously granted or are shown on the Plat.
5. The proposed development neither contains nor creates a significant drainage problem, nor is topography a salient development consideration.
6. All utilities required to serve each block, or lot are in place or arrangements to provide same have been made with the appropriate agency.
7. The proposed lots shall meet the size requirements of the Zoning Ordinance.
8. Subject property shall not exceed five (5) acres.
9. The property so platted shall conform in size and shape to the lots in the vicinity.
10. All design, engineering, improvements and specifications of documents to be submitted that are applicable to Final Plats shall be applicable to the Short Form Plat.

**36-101** Applicant's Duties: The Short Form Plat shall be submitted together with written application, application fees, tax certificates and inspection fees for subdivision approval, in as many copies and as per specifications as required for a Final Plat.

**36-102** Processing: The Short Form Plat shall be processed in the same manner herein provided for a Final Plat.

**36-103** Approval of certain plats: The public works director of the city shall have the ability to approve:

1. Amending plats described by section 212.016 of the Texas Local Government Code;
2. Minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities; or
3. A replat pursuant to section 212.0145 of the Texas Local Government Code that does not require the creation of any new street or the extension of municipal facilities.

**36-104** Election to approve: The public works director may, for any reason, elect to present the plat for approval to the municipal authority responsible for approving plats.

**36-105**      Refusal to approve plat: The public works director shall not disapprove any plat, and shall be required to refer any plat which he refuses to approve to the municipal authority responsible for approving plats within the time period specified in section 212.009 of the Texas Local Government Code."

**SECTION 2.**

Chapter 10, "Subdivisions," of the Code of Ordinances, City of River Oaks, Texas is amended to read as set forth herein:

**"Art. 38.      Amending a Plat**

**38-100**      The Public Works Director may approve and issue an amending plat, which may be recorded and is controlling over the preceding plat without vacation of that plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

1.      to correct an error in a course or distance shown on the preceding plat;
2.      to add a course or distance that was omitted on the preceding plat;
3.      to correct an error in a real property description shown on the preceding plat.
4.      to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
5.      to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
6.      to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
7.      to correct an error in courses and distances of lot lines between two adjacent lots if:
  - a.      both lot owners join in the application for amending the plat;
  - b.      neither lot is abolished;
  - c.      the amendment does not attempt to remove recorded covenants or restrictions; and
  - d.      the amendment does not have a material adverse effect on the property rights of the other owners in the plat;
8.      to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
9.      to relocate one or more lot lines between one or more adjacent lots if:

- a. the owners of all those lots join in the application for amending the plat;
  - b. the amendment does not attempt to remove recorded covenants or restrictions; and
  - c. the amendment does not increase the number of lots; or
10. to make necessary changes to the preceding plat to create six or fewer lots in the subdivision covered by the preceding plat if:
- a. the changes do not affect applicable zoning and other regulations of the municipality;
  - b. the changes do not attempt to amend or remove any covenants or restrictions; and
  - c. the area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area.

**38-101** Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

**38-102** An executed application form, application fee, tax certificates, and prescribed drawings as required for a final plat shall be submitted.

**38-103** Election to approve: The public works director may, for any reason, elect to present the plat for approval to the municipal authority responsible for approving plats.

**38-104** Refusal to approve plat: The public works director shall not disapprove any plat, and shall be required to refer any plat which he refuses to approve to the municipal authority responsible for approving plats within the time period specified in section 212.009 of the Texas Local Government Code."

### **SECTION 3.**

This ordinance shall be cumulative of all provisions of ordinances of the Code of the City of River Oaks (2006), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

### **SECTION 4.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

### **SECTION 5.**

All rights and remedies of the City of River Oaks, Texas, are expressly saved as to any and all violations of the provisions of the Code of the City of River Oaks, or any other ordinances of the City, that have accrued 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 courts.

#### SECTION 6

Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00). However, a fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation including the dumping of refuse may not exceed two thousand dollars (\$2,000.00); provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

#### SECTION 7

The City Secretary is directed to publish in the official newspaper of the City, the caption, penalty clause, savings clause, publication clause and effective date clause of this ordinance one time as authorized by Chapter 5, Section 5.02(c) of the Charter of the City of River Oaks.

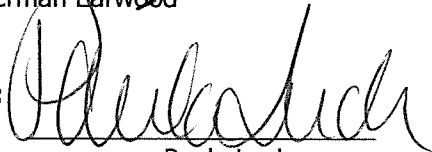
#### SECTION 8

This ordinance shall take effect upon adoption and publication as required by law, and it is so ordained.

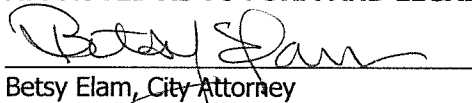
**PASSED AND APPROVED THIS THE 23rd DAY OF JULY 2019.**

  
Mayor Herman Earwood

**ATTEST:**

  
Paula Luck  
City Secretary  
City of River Oaks

**APPROVED AS TO FORM AND LEGALITY:**

  
Betsy Elam, City Attorney

ADOPTED: 7-23-19  
EFFECTIVE: 8-8-19