

ORDINANCE NO. 2022-05

AN ORDINANCE OF THE CITY OF TALTY, TEXAS, AMENDING ORDINANCE NO. 2000-07, THE CITY'S SUBDIVISION REGULATIONS, PROVIDING REGULATIONS FOR DEDICATIONS OF PUBLIC STREETS, ALLEYS AND RIGHTS-OF-WAY; ESTABLISHING REQUIREMENTS FOR HOMEOWNERS' ASSOCIATION MAINTENANCE AND REPAIR OF STREETS, ALLEYS AND RIGHTS-OF-WAY; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2000-07, adopted by the City Council of the City of Talty, Texas, on or about May 23, 2000, sets forth a comprehensive set of regulations for subdivision regulations relating to the subdivision and development of land within the City and the City's extraterritorial jurisdiction (hereinafter "Subdivision Regulations"); and

WHEREAS, the City Council finds and determines that amendments to the Subdivision Regulations are necessary and appropriate to provide for the dedication, maintenance and repair of public streets; and

WHEREAS, the Council desires to provide amendments to the Subdivision Regulations, which amendments are hereby found to be in the best interests of the public health and safety and of the citizens of the City.

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

SECTION 1. That Ordinance No. 2000-07, adopted by the City Council of the City of Talty, Texas, on or about May 23, 2000, as heretofore amended, be and is hereby amended by amending Section 10, without amendment or change to any other section or part of Ordinance No. 2000-07, such that Section 10 shall hereafter read in its entirety as follows:

"Section 10. Street, Alley, Common Area and Drainage Maintenance and Repair

a) Streets, Alleys and Rights-of-Way. Unless otherwise excepted by the City council, all streets, alleys and public rights-of-way shown on preliminary and final plat applications shall be dedicated to the public use in fee simple.

b) Street Maintenance; Residential Subdivisions.

1. Residential subdivisions with public rights-of-way and/or common property shall have a homeowners' association. The homeowners' association shall be responsible for the maintenance and repair of streets, alleys and rights-of-way, and shall own and be responsible for the maintenance of the common property. The homeowner's association shall provide for the payment of dues and assessments required to maintain the streets, alleys and rights-of-way and all common property. The homeowners' association covenants shall be approved by the city attorney, after review by city staff. The approved document shall be filed for record contemporaneously with the filing of the final plat in the county records department.
2. The homeowners' association documents, including deed restrictions and covenants, conditions and restrictions, shall indicate that the streets within the development are maintained by the association and that the city has no obligation to maintain, repair or reconstruct the streets.
3. The homeowners' association documents shall establish a reserve fund for the maintenance and repair of streets, alleys and rights-of-way, common areas, and other improvements such as common greenbelts, access-controlled structures and equipment, and other significant association infrastructure. This reserve fund shall not be commingled with any other property owners' association fund.
4. The homeowners' association's documents shall contain provisions that impose mandatory assessments against each lot to provide for maintenance and repair of streets, alleys and rights-of-way, common areas, and other common improvements. The documents shall further authorize the imposition of liens and provide for foreclosure for unpaid assessments. Every lot owner within the subdivision development shall be a member of the homeowner's association.
5. The homeowners' association's documents shall contain provisions that allow the City to assume the duty of performing the maintenance and repair obligations of streets, alleys and rights-of-way without liability for the performance thereof should the association dissolve or in any way fail or refuse to maintain its obligations. The covenants shall further provide that the City may use the outstanding balance in the reserve fund for maintenance or in the alternative, levy an

assessment upon each lot on a pro rata basis for the cost of such maintenance.

c) Drainage Improvements. The construction maintenance and repair of all drainage improvements shall be the responsibility of the abutting property owners or a valid and functioning homeowners' association. All preliminary plan or final plat applications involving subdivisions in which permanent drainage improvements are to be constructed shall be accompanied by documentation which imposes the obligation of maintenance or repair on the abutting property owners or a homeowners' association. In the event that the foregoing obligation is relegated to a homeowners' association, the association documents shall contain the same requirements set forth above for streets, alleys and public rights-of-way.

d) In the event that the homeowners' association is not active or becomes inactive, no further building or development permits shall be issued.

SECTION 2. That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the ordinances of the City of Talty, Texas, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 3. That all provisions of the ordinances of the City of Talty in conflict with the provisions of this ordinance be and the same are hereby repealed, and all other provisions of the ordinances of the City of Talty not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of other ordinances of the City.

SECTION 5. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall, upon conviction, shall be punished by a fine

not to exceed the sum of Two Thousand (\$2,000.00) Dollars for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

DULY PASSED by the City Council of the City of Talty, Texas, on the ____ day of _____, 2022.

APPROVED:

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY