

This is a draft of the proposed ordinance and has not been codified. City Council will provide their decision on how to proceed with the ordinance review and adoption process. The numbering of the ordinance is proposed as an amendment to the subdivision ordinance but may be reassigned based upon how it is to fit into the City's Code of Ordinances.

Sec. 17.5-2. Definitions. (add these terms to the existing chapter definitions or amend the definitions as follows)

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

Accessory structure or building shall mean a subordinate structure or building customarily incident to and located on the same lot occupied by the main structure or building.

Applicant shall mean the owner(s) of the property to be developed.

Bond shall mean any form of security, including a cash deposit, surety bond, or instrument of credit in an amount and form approved by the city.

Building shall mean any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattel or property of any kind. Also, anything built that requires a permanent location.

City standards shall mean those standards and specifications, together with all tables, charts, graphs, drawings and other attachments hereinafter approved and adopted by the City Council, which may be amended from time to time, and are administered by the city staff for the construction and installation of streets, sidewalks, drainage facilities, water and sanitary sewer mains and any other public facilities. All such facilities which are to become the property of the city upon completion must be constructed in conformance with these standards.

Commission shall mean the duly organized body appointed by the city council as the Planning and Zoning Commission.

Construction plans shall mean the plat, grading plan, drainage plan, site plan, erosion control plan, paving plans, utility plans, maps, drawings and technical specifications, including bid documents and contract conditions, where applicable, which provide a graphic and written description of the character and scope of the work to be performed prepared for approval by the city for construction. Maps or drawings prepared and sealed by a licensed professional engineer, showing the specific location and design of public improvements to be installed in accordance with the requirements of the City Engineer.

Developer shall mean any person, corporation, governmental or other legal entity engaged in the development of property by improving a tract or parcel of land for any use. The term “developer” is intended to include the term “subdivider.”

Development any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

Easement shall mean a grant by a property owner to the public, a corporation, or persons for a general or specific use of a defined strip or parcel of land, for such purpose as the installation, construction, maintenance and/or repair of utility lines, drainage ditches or channels, or other public services, the ownership or title to the land encompassed by the easement being retained by the owner of the property.

Easement (utility, access and drainage). An authorization granted by the property owner to the city, the public, an individual, or a private utility corporation for installing or maintaining utilities or drainage facilities over or under private land, together with the right to enter the property with machinery and vehicles necessary for the maintenance of the utilities or drainage facilities, or authorization to cross a piece of property for purpose of access/egress to another property.

Enclosure is a fully enclosed area below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement.

Engineer shall mean any person duly authorized under the Texas Engineering Practice Act (V.A.C.S. art. 3271a), as amended, to practice the profession of engineering.

Erosion shall mean the wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

Erosion control shall mean a set of best management practices or equivalent measures designed to control surface runoff and erosion and to prevent sediment from leaving a certain area.

Extraterritorial jurisdiction shall mean that unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer boundaries of which are measured from the extremities of the corporate limits of the city outward for such distances as may be stipulated in V.T.C.A., Local Government Code, section 42.001 et seq. The extraterritorial range of the City of Copperas Cove authority lies outside the corporate limits of up to two (2) miles as authorized by state law.

Land disturbing activity shall mean any change in land made or caused by human activity that may result in soil erosion from water or wind, the movement of solid materials into waters or onto adjacent lands, or increased runoff of storm water including, but not limited to, grading, excavating, transporting, or filling of land.

Lot shall mean an undivided tract or parcel of land having access to a street, which is designated as a separate and distinct tract or lot number or symbol on a duly approved plat filed of record. The terms "lot" and "tract" shall be used interchangeably.

Master plan shall mean the comprehensive plan of the city adopted by the city council.

Notice of Intent (NOI) see Texas Commission on Environmental Quality General Permit TXR150000, as amended.

Off-site shall mean any premises not located within the property to be developed, regardless of ownership.

Owner shall mean any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal or equitable title in the land sought to be subdivided under these regulations.

Plat shall mean a map representing a tract of land showing the boundaries of individual properties and streets or a map, drawing, chart, or plan showing the layout of a proposed subdivision into lots, blocks, streets, parks, school sites, commercial or industrial sites, drainage ways, easements, alleys, which an applicant submits for approval and a copy of which he intends to record with the County Clerk of the County or Counties within which the subdivision or parcel resides.

Plat, final, shall mean the map or plan of a proposed development submitted for approval by the planning and zoning commission and city council, where required, prepared in accordance with the provisions of this chapter and requested to be filed with the county clerk of the County within which the subdivision or parcel resides.

Right-of-way shall mean a strip of land, shown to be separate and distinct from adjacent lots or parcels of land, and not included in the dimensions or areas of such lots or parcels, acquired by dedication, prescription or condemnation and intended to be occupied by a road, sidewalk, railroad, electric transmission facility, oil or gas pipeline, water mains, sewer mains, storm drainage or other similar facility. Rights-of-way intended for streets, sidewalks, water mains, sewer mains, storm drainage, or any other use involving maintenance by a public

agency shall be dedicated to the public use by the plat applicant either by easement or in fee simple title.

Sediment shall mean soils or other surface materials transported by surface water as a product of erosion.

Sedimentation shall mean the process of action of depositing sediment generally caused by erosion.

Storm Water Pollution Prevention Plan (SWPPP). See Texas Commission on Environmental Quality General Permit TXR150000, as amended.

Streets and alleys shall mean a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, alley, place, or however otherwise designated. City streets shall conform to the following classifications:

- (1) Arterial streets and highways are those which are used primarily for higher speed and higher volume traffic. Routes for such streets shall provide for cross-town circulation and through-town movements.
- (2) Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance, circulation streets of a residential development and streets for circulations within such a development of a residential subdivision.
- (3) Minor streets are those which are used primarily for access to abutting properties.
- (4) Marginal access streets are minor streets located parallel to and adjacent to arterial streets and highways, providing access to abutting properties and protection from the traffic of the thoroughfares.
- (5) Alleys are minor ways used primarily for access to abutting properties for vehicle service usually to the back or side of a property.

Structure shall mean anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings of all types and ground signs, but exclusive of customary fences or boundary or retaining walls.

Subdivision shall mean:

- (a) Any land, vacant or improved, which is divided into two (2) or more parts, or alternatively assembly of two or more parts into one tract, for the purpose of:
 - (1) transfer of ownership; or
 - (2) creating lots, including an addition to the city,
 - (3) to lay out suburban, building or other lots; or
 - (4) to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to the public use or for the use of

purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts.

- (b) "Subdivision" refers to any division irrespective of whether the actual division is made by metes and bounds description in a deed of conveyance or a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.
- (c) A subdivision does not include a division of land into parts greater than five (5) acres, where each part has access and no public improvement is being dedicated.
- (d) Subdivision shall apply to land within the city or its ETJ.

Sec. 17.5-137. Enforcement; penalty. (Replaces Sections 17.5-137 and 17.5-138)

(a) Unless otherwise stated, violations of this chapter shall be punishable under the provisions of section 1-8 of the City Code of Ordinances and/or as provided in paragraphs (b) through (g) below.

(b) If it appears that a violation or threat of a violation of this subchapter or plan, rule, or ordinance adopted under this subchapter consistent with this subchapter exists, the municipality is entitled to appropriate injunctive relief against the person who committed, is committing, or is threatening to commit the violation.

(c) A suit for injunctive relief may be brought in the county in which the defendant resides, the county in which the violation or threat of violation occurs, or any county in which the municipality is wholly or partly located.

(d) In a suit to enjoin a violation or threat of a violation of this subchapter or a plan, rule, ordinance, or other order adopted under this subchapter, the court may grant the municipality any prohibitory or mandatory injunction warranted by the facts including a temporary restraining order, temporary injunction, or permanent injunction.

(e) A person commits an offense if the person violates this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter within the limits of the municipality. An offense under this subchapter is a Class C misdemeanor. Each calendar day the violation continues constitutes a separate offense.

(f) A suit under this section shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(g) It is no defense to a criminal or civil suit under this section that an agency of government other than the municipality issued a license or permit authorizing the

construction, repair, or alteration of any building, structure, or improvement. It also is no defense that the defendant had no knowledge of this subchapter or of an applicable plan or rule. Reference L.G.C. § 212.050 (a) (f).

ARTICLE III. DEVELOPMENT PROCESS

Sec. 17.5- 60 Land Disturbance Permit

Purpose(s). The purposes of this section of the subdivision ordinance are to inform the public about the hazards to life and property due to damages created by changes to existing landscape and to provide a means for which to establish and enforce protective measures to reduce these damages. Any change to existing landscape, including cutting and filling of small spaces, may initiate or increase erosion and sedimentation and may also lead to changes in which storm water travels from one property to another.

The National Environmental Protection Agency (NEPA) and the Texas Commission on Environmental Quality (TCEQ) have mandated that local governments monitor and control pollutants entering drainage ways, streams, ponds, rivers, and lakes of the United States and Texas. These regulations require that municipalities act as the local enforcement agencies for all non point pollutants that may enter the aforementioned water ways including those pollutants that are borne in sediments that are carried away due to soil erosion and the sediments they may create in these water ways.

Additionally, the Federal Emergency Management Agency (FEMA) has released flood hazard maps for Bell County (adopted in 2008), and new preliminary flood hazard maps for Coryell County for review and adoption (2008/2009). FEMA proposes to publish preliminary flood hazard maps for Lampasas County (in 2009 for review and adoption). Recent heavy rainfall events (the years 2007 and 2008) have led to numerous properties being flooded and caused considerable injury to persons and property. This section of the subdivision ordinance will provide a method for staff review of proposed grading and how this affects area drainage.

The provisions within this ordinance do not relieve any entity or property owner from storm water runoff related damages caused by their land disturbing activity, or the responsibility to adhere to all Federal and State requirements.

Sec. 17.5 - 61. Land disturbance permit required.

(a) *When required.* A land disturbance permit shall be obtained before any land disturbance activity, including grading or excavating, that causes to be moved more than three (3) cubic yards of soil, fill, or other material.

A permit shall be obtained whenever the land disturbance activity is within the corporate limits of the City of Copperas Cove. A land disturbance permit application shall be submitted concurrent with the construction plans for a subdivision.

(b) *When not required.* A land disturbance permit is not required for the following land disturbing activities:

- (1) The removal, transplanting, or planting of woody or herbaceous plants on existing, individual one and two family residential parcels.
- (2) Agricultural activities such as clearing and cultivating ground for crops, construction of fences to contain livestock, construction of stock ponds, and other similar agricultural activities.
- (3) Clearing of narrow sightlines for the specific purpose of conducting measurements and surveys.
- (4) Trenching required for structural foundations or utility improvements.
- (5) Routine maintenance of existing landscaping.

(c) *Required components.* An applicant proposing land disturbance must submit an application for a Land Disturbance Permit, a copy of their Notice of Intent (NOI) (when required), proof of a Storm Water Pollution Prevention Plan (SWPPP) (when required), along with the following items:

- (1) Completed permit application signed by the property owner or, in the case of a corporation/partnership, a party empowered to sign such actions (supported with authorizing documentation);
- (2) Nonrefundable permit application fee, as established by the City Council;
- (3) Deed showing current ownership of the subject property
- (4) Construction plans showing existing facilities (both under and above ground), existing contours/grades, proposed improvements (both under and above ground), and contours/grades.
- (5) Erosion control plan

(d) *Review process.* The city staff agency responsible for the intake of the permit shall be the Building and Permits Division and the review of land disturbance permit applications shall be made by the City Engineer. Applications shall be submitted on a form provided by the Building and Permits Division. The City Engineer shall advise the applicant in writing of any concerns with the permit application. The City Engineer shall issue the land disturbance permit if all components required by this section have been submitted, the fee paid, and all concerns have been addressed.

(f) *Issuance of permit.* The City Engineer shall issue a permit within seven (7) working days after the permit application is received or give a detailed written notice to the applicant that the permit application is unapproved. Failure to respond within the required timeframe shall not constitute automatic approval of the application. If the permit application is returned as being unapproved, the

applicant may correct the deficiencies and resubmit the permit application for approval without paying any additional fees. If the permit application is returned a second time or if a second request is not received within forty-five (45) calendar days of the date of notice of the first written notice, the applicant may be required to resubmit the permit application and may be required to pay all standard permit application fees.

(g) *Appeal.* The applicant for a land disturbance permit may file an appeal of a non-issuance by staff with the City Manager's office within fifteen (15) calendar days. The appeal request must detail the applicant's basis for challenging the written findings of the City Engineer. The City Manager shall consider the merits of the appeal and shall either resolve the appeal in the applicant's favor and have the permit issued or, upon applicant's request, schedule the appeal for the next available City Council meeting agenda for final resolution.

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