

ORDINANCE NO. 2015-

AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 102 OF THE CODE OF ORDINANCES OF THE CITY OF LEAGUE CITY, TEXAS ENTITLED "SUBDIVISIONS" TO AMEND REQUIREMENTS AND PROCEDURES FOR REQUESTING VARIANCES THERETO.

WHEREAS, on January 26, 1999, the City Council of the City of League City, Texas repealed Ordinances Nos. 86-51, 93-104, and 95-12 and adopted Ordinance No.99-07 adopting new regulations pertaining to subdivision development; and

WHEREAS, the City Council deems it necessary and in the best interests of the citizens to adopt amendments to the subdivision ordinance that clarify the requirements and procedures for requesting a variance from the provisions pertaining to subdivision development;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEAGUE CITY, TEXAS, as follows:

Section 1. The facts and opinions in the preamble of this ordinance are true and correct.

Section 2. The City Council of the City of League City, Texas, hereby amends Article I of Chapter 102 of the Code of Ordinances of the City of League City, Texas, entitled "Subdivisions" by repealing Section 102-14, entitled *Variances*, in its entirety and replacing it with the following:

Section 102-14. Variances.

- (a) The Planning and Zoning Commission may grant a variance to any of the provisions of Article I of Chapter 102, except for requirements in the city's adopted Engineering and Construction Standards, pursuant to the procedures set forth in this section and upon a showing by clear and convincing evidence by the applicant that: (1) there are special circumstances or conditions affecting the property in question; (2) that enforcement of the provisions of this chapter would deprive the applicant of a substantial property right; and (3) that such variance, if granted, would not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity. Each and every application for variance shall be decided solely and entirely on its own merits; neither the lack of enforcement of any ordinance nor the disposition of any prior or pending application for variance may be considered or allowed to affect any decision on the application in question. Pecuniary interests standing alone shall not be justification for the granting of a variance.
- (b) The application fee and procedures for a public hearing and provision of notice shall be the same as established by the city for a rezoning request.
- (c) The Planning and Zoning Commission may, by affirmative vote of at least three-fourths (3/4) of its members present and voting, grant a variance to the regulations of Article I of

Chapter 102 if it finds, by clear and convincing evidence, that all of the following criteria are met:

1. There are unique conditions peculiar to the subject parcel or tract that do not exist on adjacent parcels or tracts;
 2. Strict application of Chapter 102 deprives the applicant of rights commonly enjoyed by other land in area or land with similar uses;
 3. The variance, if granted, does not frustrate the intent and purpose of Chapter 102 and community, neighborhood, and other applicable land use and development plans, and will not adversely affect property or property values in the vicinity of the subject site;
 4. Conditions supporting the granting of the variance request are not self-created by disregard or ignorance of federal, state, or local codes and/or ordinances; and
 5. The variance is tailored as narrowly as possible while still granting the relief sought.
- (d) Factors that may not be considered to support the granting of a variance include, but are not limited, to the following:
1. Personal and/or economic hardship;
 2. Misrepresentation of property conditions, uses, or regulations by a seller or agent;
 3. Errors made by a surveyor, contractor, or builder; and
 4. Increasing the profit, income, or competitive advantage of the applicant; and
 5. Threats to locate or relocate outside of the city, or cancel or scale back a project, if a variance is denied.
- (e) The applicant bears the burden of proof to demonstrate that the requirement(s) of Article I of Chapter 102 from which a variance is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the applicant. The applicant shall submit statements, studies, and any other relevant information as may be required by the City Planner to substantiate the claim(s) for which a variance is requested. If any information is so required, the application for variance shall be deemed complete only upon the submittal of all such required information. The Planning and Zoning Commission and/or City Council during review and consideration of the request may require additional studies or information from the applicant, which additional information must be submitted before any action may be taken on the variance application. The offer or submittal, at any stage of the variance application process, by the applicant of any information that proves to be false shall cause the variance request to be denied. If a variance request is approved based upon information offered or submitted by the applicant, without regard to the applicant's knowledge of the falsity of said information, and subsequent to the approval of the variance the approving authority finds said information to be false by a preponderance of the evidence, the variance shall be considered null and void as of the date of that finding and the approving authority shall reconsider the variance request in light of the corrected information.

(f) The decision of the Planning and Zoning Commission on a variance request may be appealed within fourteen (14) days of said decision by: (1) the applicant's filing a written appeal with the City Secretary; or (2) the written request by two members of the City Council to place consideration of the variance upon the agenda of a City Council meeting. The City Council shall consider the appeal at a meeting not later than thirty (30) calendar days after the date on which the appeal is submitted and may, by majority vote of those present and voting, affirm, modify, or reverse the decision of the Planning and Zoning Commission. Such decision of the City Council shall be final.

Section 3. All ordinances and agreements and parts of ordinances and agreements in conflict herewith are hereby repealed to the extent of the conflict only.

PASSED on first reading the _____ day of _____, 2015.

PASSED on second reading the _____ day of _____, 2015.

PASSED AND ADOPTED on the _____ day of _____, 2015.

TIMOTHY PAULISSEN
Mayor

ATTEST:

DIANA M. STAPP
City Secretary

APPROVED AS TO FORM:

NGHIEM V. DOAN
City Attorney