

ORDINANCE NO. 140

**AN ORDINANCE AMENDING CITY OF GOSHEN
SUBDIVISION REGULATIONS ORIGINALLY ADOPTED
BY ORDINANCE NO. 34 AS AMENDED THEREAFTER
AND TO DECLARE AN EMERGENCY
AND FOR OTHER PURPOSES**

WHEREAS, the City Council of Goshen, by Ordinance No. 34, did adopt, by reference, the City of Goshen Subdivision Regulations; and

WHEREAS, the City Council of Goshen, by Ordinance Nos. 41, 44, 49, 57, 61, 65, 75, 86, 93, 105, 108, 113, 122, 123, 135 and 136 amended the previously adopted Subdivision Regulations; and

WHEREAS, the City Council of Goshen sees a need to make various changes to the Subdivision Regulations to provide additional clarification and give particular direction as to certain areas, including lot splits, so as to lift the moratorium enacted by Ordinance 137 and extended by Ordinance 138; and

WHEREAS, pursuant to Ark. Code Ann. §14-56-423, the Goshen City Council has the authority to make changes to its Subdivision Regulations; and

WHEREAS, the City Council finds that there is a critical need to address inconsistencies in the Subdivision Regulations, to address the manner in which lot splits have been used to avoid the requirements that a larger subdivision would entail, and to be able to lift the moratorium on lot splits currently in place, all of which create potential public harm and that these circumstances constitute an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF GOSHEN, ARKANSAS:

SECTION 1: That the document entitled: "City of Goshen Subdivision Regulations" adopted by Ordinance 34 on June 2, 2003 and subsequently amended by Ordinances 41, 44, 49, 57, 61, 65, 75, 86, 93, 105, 108, 113, 122, 123, 135 and 136 is hereby amended as reflected in Sections 2 through 8 hereof. All changes to said ordinances and regulations are incorporated in the previously adopted "City of Goshen Subdivision Regulations."

SECTION 2: Amend **Section 1-2**, Definitions by **deleting** the language of the definition of *Lot Split* and **substituting** the following language in its place:

Lot Split shall mean subdividing property which involves the dividing or redesigning of an

existing lot or lots per the requirements of DIVISION 1-A of SECTION 2 PLATTING PROCEDURES but which does not involve the meeting the requirements of DIVISION B of SECTION 2 PLATTING PROCEDURES. A parent tract may only suffer one lot split, even if there have been different owners, before the property owner shall be required to apply for preliminary and final plat approvals for a subdivision. For purposes of determining whether a tract is a parent tract, the deed records as of January 1, 2000 shall be the date of such determination. All divisions prior to that date shall not be considered.

SECTION 3: Amend **Section 1-2**, Definitions by **adding** the language of the definition of *Private Street*:

Private Street shall mean a street not dedicated as a public street and not otherwise platted as part of a formal subdivision plat, which is evidenced by a recorded access easement and which is fully maintained by either the owner of the fee simple interest or by the holder(s) of the easement rights.

SECTION 4: Amend **Section 1-2**, Definitions by **deleting** the language of the definition of *Subdivision* and **substituting** the following language in its place:

Subdivision shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether for immediate or future sale, or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided however, that the following shall not be within this definition, nor be subject to the subdivision rules and regulations of the city except as provided herein:

- (1) The public acquisition by purchases or dedication of parcels of land for the widening or opening of street or other improvements.
- (2) A court ordered division of land. If such court ordered division creates a tandem lot, before any structure may be built thereupon the owner must meet all the requirements of the subdivision regulations.

SECTION 5: Amend **Section 2-5 (a)**, by **deleting** the language of that subsection and **substituting** the following language in its place:

- (a) Lot split. A property owner seeking to accomplish a lot split shall make application and pay the required fee. A lot split request shall include a survey with a legal description and a scaled drawing of the parcel being split, showing dimensions of the new parcels created and shall include all the requirements for a Lot Split Survey as provided herein. A lot split shall not be permitted if it seeks to divide a tract of land into more than five (5) tracts. All lots resulting from a lot split shall have a minimum of one hundred fifty feet (150') frontage on a public street designated as minor

collector, cul-de-sac, local & loop street or alley or a minimum of three hundred feet (300') frontage on principal arterial, minor arterial, or major collector. A split of a lot in an existing subdivision shall require that the owner have prepared and present a re-plat of such subdivision or of the lot affected, but the fee for a lot split shall be inclusive and no separate fee for re-plat shall be required. In order to insure compliance with the Subdivision Regulations, a parent tract may only have one lot split, even if there have been different owners, before the property owner shall be required to apply for preliminary and final plat approvals for a subdivision. For purposes of determining whether a tract is a parent tract, the deed records as of January 1, 2000 shall be the date of such determination. All divisions prior to that date shall not be considered. For purposes of determining the parent tract being considered for a lot split, the assignment of parcel numbers by the County Assessor may or may not be taken into account, but rather the chain of title as evidenced by recorded deeds shall be determinative. If the records of the City of Goshen reflect a lot split, but the landowner(s) did not file the plat or deed(s) with the Washington County Circuit Clerk and Recorder of Deeds evidencing such lot split, the landowner shall be bound by the lot split revealed by the records of the City of Goshen. Conversely, if a parent tract was split without the approval of the City of Goshen, it shall not be eligible to be split informally by means of a Lot Split. Lot splits shall be processed in an expedited manner by considering the Lot Split Survey approval or disapproval at the same meeting. The property owner shall be required to fulfill all of the Subdivision Regulations that apply. No parcel resulting from a lot split shall be less than the minimum area required by ordinance.

A lot split which creates a tandem lot shall require that:

- (1) Before a building permit will be issued for a residential or commercial structure upon any lot resulting from such lot split, the owner shall present sufficient documentation that all the requirements of subsection (3) below have been met; or
- (2) In the case of a parcel outside the corporate limits of Goshen, but within the City's planning jurisdiction, the owner will sign a covenant with the City of Goshen in a form provided by the City, which shall include the legal description of the tandem lot(s) provided by the owner and which shall be suitable for filing in the deed records of Washington County, which covenant shall run with the land; shall be binding upon all heirs, successors and assigns; and shall provide that: (i) before any residential or commercial structure may be built thereupon, all the requirements of subsection (3) shall have been met; and (ii) if the covenant be breached that the City may seek to enforce the covenant by court action and obtain a mandatory injunction requiring the owner(s) to comply herewith, in which the City shall also recover its attorney's fees for having to pursue such action;
- (3) All tandem lots shall have access to a public street via a private street by a

recorded access easement, which may be shared by others, with a minimum width of thirty feet (30') and which access easement shall have sufficient base material twenty feet wide (20') and as deep as necessary, as determined by the planning commission, in consultation with the Goshen Fire Department, for the reasonable ingress and egress of traffic and public safety equipment, including, but not limited to emergency and service vehicles, school buses, postal and package delivery trucks. The approval of a representative of the Goshen Fire Department shall be noted on the plat at the appropriate time, which may then require that the plat with such approval is re-recorded. Such approval is for the limited purpose of gauging the Goshen Fire Department's ability to use it for access in the event of an emergency as viewed at the time of approval, but the Goshen Fire Department shall not be responsible if subsequent conditions do not permit such access. All tandem lot owners shall be responsible for maintaining the access easement so that all vehicles have safe access to any structures located on the lot. The tandem lot owners shall have title to, or a perpetual easement filed of record for the access easement and shall provide evidence of such as a condition of obtaining approval of the lot split.

(4) No more than five (5) lots may utilize a private street as described above. Thereafter the property owner shall be required to apply for preliminary and final plat approvals for a subdivision and make all the necessary street improvements to the entire street from the public road to the platted subdivision, which may require that property owner to obtain the necessary easements of sufficient width to accomplish the required improvements per the Subdivision Regulations.

SECTION 6: Amend Section 2-6 (c)(2), by deleting the language of that subsection and substituting the following language in its place:

- (2) The original surveys shall be submitted as follows: seven copies 18" x 24" and two reduced copies on 11" x 17".

SECTION 7: Amend Section 2-6 (d)(1), by deleting the language of that subsection and substituting the following language in its place::

- (1) **Certificate of Survey Approval.**

“All requirements of the Goshen Subdivision Regulations relative to the preparation and submittal of a Survey [*insert appropriate phrase: for lot split or lot line adjustment*] having been fulfilled, approval of this Survey is hereby granted.

(Signed)

Date of Execution

Goshen Mayor or Chairman
Goshen Planning Commission
Either may sign

Certificate of Approval Regarding Compliance with Tandem Lot Requirements.

Pursuant to the Goshen Subdivision Regulations, this document is given approval by a representative of the Goshen Fire Department regarding the access to the tandem lot created hereby. [If no tandem lot, this signature is not necessary. If the private street is built later, this plat shall be signed by the representative of the Goshen Fire Department at that time and the landowner shall re-record it].

Date of Execution

Representative of Goshen Fire Dept.”

SECTION 8: Amend Section 2-6 by added subsection (e):

(e) The landowner shall be required to file with the Washington County Circuit Clerk and Ex-officio Recorder of Deeds an executed copy of the plat and to provide a copy to the City Recorder within thirty (30) days thereafter. In the case of a tandem lot where the access via private street is improved after the approval of the lot split, the landowner shall obtain the signature of the representative of the Goshen Fire Department as contemplated hereby and shall then re-record the plat with the Washington County Circuit Clerk and Ex-officio Recorder of Deeds and provide a copy to the City Recorder within thirty (30) days thereafter.

SECTION 9: That the City Attorney and Recorder are directed to include the above referenced amendments into the current Subdivision Regulations and incorporate them into the document known as the “City of Goshen Subdivision Regulations” which shall also reflect the effective date of this Ordinance.

SECTION 10: That all regulations and ordinances adopted and in effect prior to the effective date of this Ordinance, are amended as necessary to give effect to this ordinance. All ordinances in conflict herewith are repealed and specifically Ordinance 137, which was amended by Ordinance 138 creating a moratorium on lot splits, both are repealed.

SECTION 11: EMERGENCY CLAUSE: Because of the need: to make the Goshen Subdivision Regulations more precise and easier to understand; to provide an appropriate framework for allowing lot splits but still protecting the public through the Subdivision Regulations; and to

repeal the existing moratorium on lot splits, this matter is such pressing business that it is viewed that an immediate solution is necessary thereby creating an emergency. It is hereby declared that based on the conditions set forth herein, an emergency exists and this Ordinance, being necessary for the immediate protection of the health, safety, and welfare of the citizens of Goshen, Arkansas, shall be in effect immediately upon its passage, approval, and publication.

PASSED AND APPROVED this 14th day of November, 2017.



Max Poye, Mayor

ATTEST:



Sharon Baggett, City Recorder

APPROVED AS TO FORM:



Charles L. Harwell, City Attorney

ROLL CALL VOTE ADOPTING THE ORDINANCE

Names Of Those Voting YEA

Names Of Those Voting NAY

Paula Anderson
Andy Bethell
Cathy Oliver
Dick Seddon

Absent

Brian Buell
Lanny Samuels

ROLL CALL VOTE ADOPTING THE EMERGENCY CLAUSE

Names Of Those Voting YEA

Paula Anderson
Andy Bethell
Cathy Oliver
Dick Seddon

Names Of Those Voting NAY

Absent

Brian Buell
Lanny Samuels