

ORDINANCE NO. 144

**AN ORDINANCE AMENDING CITY OF GOSHEN
SUBDIVISION REGULATIONS ORIGINALLY ADOPTED
BY ORDINANCE NO. 34 AS AMENDED THEREAFTER
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, 136 and 140 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 regarding lot splits; 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 again address the manner in which lot splits have been used to avoid the requirements that a larger subdivision would entail, which create potential public harm.

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, 136 and 140 is hereby amended as reflected in Section 2 hereof. All changes to said ordinances and regulations are incorporated in the previously adopted "City of Goshen Subdivision Regulations."

SECTION 2: 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. Except for tandem lots, all lots resulting from a lot split shall have a minimum of one hundred (100') frontage on a public street. As to tandem lots, the parent tract or other tract through which access is provided for the tandem lot, shall have street frontage to meet the requirements of the previous sentence. Any property owner seeking a lot split which does not meet the requirements of this Section may apply for a deviation pursuant to Section 1-11 of these regulations. 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 3: 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 4: 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.

PASSED AND APPROVED this 18th day of December, 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
Brian Buell
Cathy Oliver
Lanny Samuels
Dick Seddon