

**ORDINANCE NO. 0035, AMENDMENT NO. 19**

**AN ORDINANCE AMENDING ORDINANCE NO. 0035 OF THE TOWN OF HORIZON CITY, TEXAS (AMENDMENT NO. 1); TO ESTABLISH AN EXEMPTIONS TO THE PERIMETER ROADWAY REQUIREMENT FOR CERTAIN APPROVED AND FUNDED CAPITAL IMPROVEMENT PROJECTS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; REPEALER; SEVERABILITY; PROPER NOTICE AND HEARING**

**WHEREAS,** a proposal was brought forward by staff to and considered by the Town of Horizon City Planning and Zoning Commission to amend portions of Ordinance No. 0035; and

**WHEREAS,** the Planning and Zoning Commission considered the staff's proposals at its November 14, 2016 meeting and made recommendations regarding the proposed changes to the ordinance; and

**WHEREAS,** public hearings have been held as required by law; and

**WHEREAS,** pursuant to Texas Local Government Code section 212.002, the city has authority to adopt rules governing plats and subdivisions within the city's jurisdiction and pursuant to section 51.001, the city has general authority to adopt an ordinance that is for the good government, peace or order of the city and is necessary or proper for carrying out a power granted by law to the city; and

**WHEREAS,** the City Council finds that it is necessary and proper for the good government, peace and order of the Town of Horizon City to adopt this Ordinance and technical code; and

**WHEREAS,** the City Council may subsequently establish by separate resolution, the appropriate fee provided for in this ordinance to reflect changed or updated costs of issuing permits and providing the regulated services, which shall supersede the fee created herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HORIZON CITY, TEXAS, THAT:**

**ARTICLE I. ENACTMENT OF AMENDMENTS**

Pursuant to Sections 212.002 and 51.001 and 51.012 of the Texas Local Government Code, the City Council of the Town of Horizon City hereby enacts and adopts this amendment no. 19 to Ordinance no. 0035, which regulates subdivisions within the territorial limits of the Town of Horizon City and its extraterritorial jurisdiction to amend the sections and subsections set forth, as follows:

## **5.16.2 EXISTING PERIMETER STREETS**

**5.16.2.1** Any development abutting an unimproved or partially improved perimeter street shall dedicate such additional right-of-way and improve or reconstruct the street as may be necessary to complete the perimeter street to the classification required. For the purpose of this subsection, an “unimproved perimeter street” shall mean a perimeter street that does not substantially comply with the street design specifications or requirements of this Ordinance, generally given evidence by the absence of paving or curb and gutter.

**5.16.2.2** Where a development would be required by this Ordinance to improve an existing unimproved perimeter street that is designated in the town’s Major Thoroughfare Plan as an arterial street to less than its full width, the developer may elect in lieu of making the required perimeter street improvements, to pay to the town prior to beginning construction the total construction cost, excluding engineering and design cost, of the required street improvements. The amount to be paid shall be determined by the Town Engineer, based on the actual cost of providing for the improvements, as shown in the most recent public bids for the same or similar type street improvements. If the money paid to the city is not used for the required improvements within five (5) years of payment, the funds shall be returned to the person or entity making the payment.

## **5.16.3 EXCEPTION TO PERIMETER STREET REQUIREMENT**

The provisions of this section requiring the improvement of existing unimproved perimeter streets to the town’s specifications for new streets shall not apply:

- To state or federal highways
- To roadways that are to be constructed or reconstructed as part of an approved and funded Capital Improvement project that has been awarded for construction.

## **ARTICLE II. FINDINGS OF FACT**

That this ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinance, and such is evidenced by the signatures below; and further that the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

## **ARTICLE III. REPEALER**

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the effect of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

## **ARTICLE IV. SEVERABILITY**

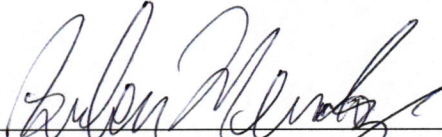
Should any of the clauses, sentences, paragraphs, sections or parts of this ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

**ARTICLE V. PROPER NOTICE AND MEETING**


It is officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52, Texas Local Government Code and the Charter of the Town of Horizon City, Texas.

**PASSED AND APPROVED** this the 13<sup>th</sup> day of December, 2016, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Horizon City, Texas.

**TOWN OF HORIZON CITY**


  
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Ruben Mendoza, Mayor

**ATTEST:**

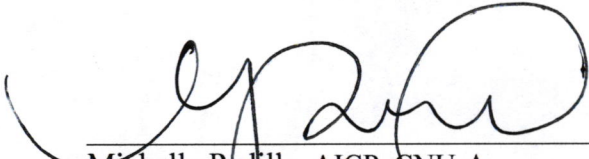
  
\_\_\_\_\_  
Elvia Schuller, City Clerk



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bertha A. Ontiveros  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Michelle Padilla, AICP, CNU-A  
Planning Director

First Reading: 11/8/2016  
Second Reading: 12/13/2016