

ORDINANCE NO. 22-R

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 23 ½, TOWNHOUSES, CONDOMINIUMS AND PATIO HOMES, OF THE CODE OF ORDINANCES OF THE CITY OF ALVIN, TEXAS, FOR THE PURPOSE OF AMENDING ARTICLE I. TOWNHOUSE PROJECTS, ARTICLE II. CONDOMINIUM PROJECTS, AND ARTICLE III. PATIO HOME DEVELOPMENTS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City Council of the City of Alvin is continually reviewing the provisions of the City Code of Ordinances to ensure that it meets the current needs of the City and that the procedures herein reflect standard practice; and

WHEREAS, the City Council of the City of Alvin desires to promote the health, safety, and general welfare of its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS:

Section 1. That Chapter 23 ½, Townhouses, Condominiums and Patio Homes, of the Code of Ordinances, City of Alvin, Texas, is hereby amended with the language as follows:

CHAPTER 23 ½, TOWNHOUSES, CONDOMINIUMS AND PATIO HOMES

ARTICLE I. TOWNHOUSE PROJECTS

Sec. 23½-1. Definitions.

- (a) The definitions contained in., Chapter 81 of the Texas Property Code, also known as the Condominium Act, are incorporated herein. The regulations contained in this chapter shall be in respect to those matters covered by Chapter 81, except insofar as the regulations contained herein go beyond the scope of said article.
- (b) The term “townhouse” shall mean an enclosed space consisting of one or more rooms and one or more stories of floors which is one of a series of dwelling units designated for single-family occupancy, which dwelling units are structurally connected or immediately adjacent to each other without side yards between individual dwelling units.
- (c) “Townhouse group” means four (4) or more contiguous townhouses connected by common walls or immediately adjacent to each other.

- (d) “Townhouse project” shall mean a townhouse development or plan which is submitted and approved by a single permit and which is laid out on contiguous or adjacent land which is owned in fee by the developer.
- (e) The term “townhouse subdivision” shall apply to those developments in which it is proposed to subdivide land into individual lots and construct townhouses thereon for sale to individual owners and where the lots in the subdivision are smaller than the minimum requirements of the chapter regulating subdivisions [chapter 21].
- (f) The term “interior street” shall apply to public streets, dedicated by the developer of a townhouse subdivision. Said streets shall not exceed six hundred (600) feet in length and shall be designed to serve a limited area within such subdivision and not properties outside the subdivision.
- (g) The term “access street” shall apply to a public street either within or bounding a townhouse subdivision which serves a townhouse subdivision and other property outside the subdivision.
- (h) By the term “open space” is meant general common elements in a townhouse project or subdivision including private property under common ownership which shall remain undivided in the townhouse project, as defined in Texas Property Code § 81.108. Open space may be designated for recreation area, private park (for use of property owners within the project or subdivision), playlot area, plaza area, building setbacks (other than those normally required), and ornamental areas open to general view within the subdivision. Open space does not include streets, alleys, utility easements and required building setbacks.
- (i) By the term “driveway” shall mean a private access to parking spaces within the project or subdivision.

Sec. 23½-2. Townhouse subdivision plat required for issuance of permit.

Any person proposing or intending to develop a townhouse subdivision within the city or its extraterritorial jurisdiction shall, before any building permit is issued, cause a plat of such townhouse subdivision to be approved by the planning commission, which plat shall be in conformity with all of the provisions of the Subdivision Ordinance except to the extent that such provisions are inconsistent with the requirements set forth in this chapter, which shall control with regard to townhouse subdivisions.

Sec. 23½-3. Streets and alleys.

Interior streets shall have a minimum right-of-way of sixty (60) feet and shall be developed with a minimum twenty-eight (28) foot paving section with concrete curbs and gutters and sidewalks in accordance with standards set forth in the City’s Design Criteria.

Access streets shall have a minimum right-of-way of sixty (60) feet and shall be classified as a minor/major collector or arterial roadway on the City’s Thoroughfare Plan.

All townhouse subdivisions shall have a direct access from at least one dedicated and accessible public street having a right-of-way width of not less than sixty (60) feet.

Alleys, where provided, shall have a minimum right-of-way of twenty (20) feet and shall be developed with a concrete pavement in accordance with such standards.

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Sec. 23½-10. Supplementary regulations.

- (a) No mining, excavation, or soil removal shall be allowed except in connection with construction covered by building permit.
- (b) Only one main building for single-family, two-family, or multifamily residential use, with permitted accessory buildings, may be located upon any one lot.
- (c) All utilities shall be placed underground.
- (d) Each plat submitted for a townhouse subdivision or project shall be accompanied by a true and correct copy of the By-Laws or proposed By-Laws for the regime, provided for in Texas Property Code § 81.202.

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Secs. 23½-12—23½-16. Reserved.

ARTICLE II. CONDOMINIUM PROJECTS

Sec. 23½-17. Definitions.

- (a) The definitions contained in Texas Property Code Chapter 81, also known as the Condominium Act, are incorporated herein. The regulations contained in this chapter shall be in respect to those matters covered by Texas Property Code Chapter 81, except insofar as the regulations contained herein go beyond the scope of said article.
- (b) *Property* means and includes the land, whether leasehold or in fee simple, and the buildings, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto.
- (c) *Building* includes the principal structure or structures erected or to be erected upon the land described in the declaration provided for as filed in the plat records of the particular county which determines the use to be made of the improved land whether or not such improvement is composed of one or more separate buildings or one or more floors or stories.
- (d) *Condominium project* means a real estate condominium project; a plan or project whereby four (4) or more apartments, rooms, office spaces, or other units in existing or proposed buildings or structures are offered or proposed to be offered for sale.
- (e) *Condominium* means the separate ownership of single units or apartments in a multiple-unit structure or structures with common elements. The individual estates are technically established by use of vertical and horizontal planes (surfaces) which are usually identified: Vertically, as walls (not room partitions) of the unit and, horizontally, as the floors and ceilings of the unit.
- (f) *Apartment* means an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.
- (g) *Developer* means a person who undertakes to develop a real estate condominium project.
- (h) *Master deed or master declaration or declaration* means the deed, lease or declaration establishing the property as a condominium project.

- (i) *Co-owner* means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns an apartment or apartments within the condominium project.
- (j) *Council of co-owners* means all the co-owners as defined in subsection (i) of this section.
- (k) *Majority of co-owners* means the apartment owners with fifty-one (51) percent or more of the votes weighed so as to coincide with percentages or fractions assigned in the declaration.
- (l) *Person* means in individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.
- (m) *General common elements* means and includes:
 - (1) The land, whether leased or in fee simple, on which the building stands;
 - (2) The foundation, bearings, walls and columns, roofs, halls, lobbies, stairways, and entrances and exits or communication ways;
 - (3) The basements, flat roofs, yard, and gardens, except otherwise provided or stipulated;
 - (4) The premises for the lodging of janitors or persons in charge of the buildings, except as otherwise provided or stipulated;
 - (5) The compartments or installation of central services such as power, gas, cold and hot water, refrigeration, central air conditioning and central heating, reservoirs, water tanks, and pumps, swimming pools, and the like;
 - (6) The elevators and shafts, garbage incinerators and, in general all devices or installations existing for common use; and
 - (7) All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime, and any other elements described in the declaration filed pursuant to Texas Property Code § 81.101 et seq.
- (n) *Limited common elements* means and includes those common elements which are agreed upon by all of the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like.
- (o) *To record* means to record in the office of the county clerk of the county in which the property is situated in accordance with the provisions of Texas Local Government Code Chapter 191.
- (p) *Private street* shall apply to all streets which have private access to the parking spaces within the project. All private streets shall have a minimum width of twenty-five (25) feet paving section and shall be constructed in accordance with the standards set forth in chapter 20 of the Code of Ordinances of Alvin. There shall be no off-street parking allowed and signs must be posted to indicate “No Parking.” It will not be necessary that concrete curbs and gutters be required if adequate drainage facilities are provided. It is further provided that in the event the developer elects to construct a private street, he will specifically grant to the city the irrevocable right of ingress and egress for the city to execute police powers, including but not limited to police, fire, etc. and execution of all municipal duties.

- (q) *Access street shall* apply to public streets which must either be within or bound a condominium project.
- (r) *Open space* means the common elements, both general and limited, which shall remain undivided and shall not be the object of an action for partition or division in co-ownership so long as suitable for condominium regime, and in any event, all mortgages must be paid prior to the bringing of an action for partition or the consent of all mortgagees must be obtained. Any covenant to the contrary shall be void.

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Sec. 23½-21. Setback lines.

Minimum building setback lines shall be as follows: All buildings shall be setback a minimum of twenty-five (25) feet from the front and ten (10) feet from the back and sides of the property boundaries.

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Sec. 23½-25. Firewall.

It is required that a two-hour firewall (as set out in the adopted Building Code) extending through the attic, if applicable, bound each apartment wall (not room partitions), ceiling, and floor of the unit, excluding exterior walls which shall consist of a noncombustible or fire-treated material.

Sec. 23½-26. Condominium conversions.

Any subsequent conversion after this article is enacted must comply with this article in all respects.

Secs. 23½-27—23½-30. Reserved.

ARTICLE III. PATIO HOME DEVELOPMENT

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Sec. 23½-33. Streets.

- (a) *Interior streets.* Interior streets which will serve only a patio home subdivision shall have a minimum right-of-way width of sixty (60) feet and shall be developed with a minimum twenty-eight (28)-foot paving section with concrete curbs and gutters in accordance with standards set forth in the City's Design Criteria.
- (b) *Access streets.* Access streets shall have a minimum right-of-way of sixty (60) feet and shall be classified as a minor/major collector or arterial roadway on the City's Thoroughfare Plan.

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Sec. 23½-36. Setback lines.

Minimum building setback lines of structures erected on patio home lots shall be as follows:

- (a) Twenty-five (25) feet from the front lot line where dwelling fronts on a street with a sixty-foot or wider right-of-way;

- (b) Fifteen (15) feet from side lot line where dwelling sides on a street;
- (c) Five (5) feet from the utility easement in the rear of the lot; and
- (d) Ten (10) feet from adjacent building of one side of lot on the other, excluding roof overhang.

Section 2. That except as amended herein all other provisions of Chapter 23 ½ of the Code of Ordinances, City of Alvin, Texas, shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 3. Penalties. Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be amended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not to exceed \$500. Each continuing day's violation shall constitute a separate offence. The City of Alvin retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 4. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Incorporation into Code of Ordinances. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances, City of Alvin, Texas, as an addition, amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 6. Effective Date. This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of Chapter 52 of the Texas Local Government Code and the City of Alvin Charter.

Section 7. Open Meetings Act. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*. Notice was also provided as required by Chapter 52 of the *Texas Local Government Code* and the *City of Alvin Charter*.

Section 8. Publication. The City Secretary of the City of Alvin is hereby directed to publish this Ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the City of Alvin Charter.

PASSED and APPROVED on the 17th day of March 2022.

THE CITY OF ALVIN, TEXAS

ATTEST

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary