

## **ORDINANCE NO. 2021-17**

### **AN ORDINANCE AMENDING THE CITY OF BOERNE SUBDIVISION ORDINANCE NO. 2007-56, AS REVISED FEBRUARY 11, 2020, ARTICLE 2. PROCEDURES, TO ADD SECTION 09. DORMANCY FOR PERMITS AND PROJECTS**

**WHEREAS**, Section 245.002 of the Texas Local Government Code (“LGC”) provides that with the exception of exemptions listed in Section 245.004, permit applications are to be considered by the City on the basis of requirements in effect at the time the original application for the permit, plan for development, or plat application giving the City fair notice of the project and the nature of the permit sought is filed for review, or, where a series of permits is required for a project, requirements in effect at the time the original application for the first permit in that series is filed;

**WHEREAS**, LGC Section 245.001 differentiates between a “permit” (“...form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or to initiate, continue, or complete a project...”) and a “project” (“an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor”);

**WHEREAS**, LGC Section 245.005 authorizes the City to enact an ordinance placing an expiration date of not less than two years on an individual permit if no progress has been made towards completion of the project and placing an expiration date on a project of no earlier than the fifth anniversary of the date the first permit application was filed for the project if no progress has been made towards completion of the project; and

**WHEREAS**, the City Council of the City of Boerne now finds that it is in the best interest of the public health, safety and welfare of the citizens of Boerne to cause permits and projects to expire when no progress has been made on the projects by adopting the amendments included hereinbelow;

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

The City of Boerne Subdivision Ordinance No. 2007-56, as revised February 11, 2020, Article 2. “Procedures,” is hereby amended to add Section 09. “Dormancy for Plats and Projects,” to read as follows:

#### **SECTION 09. DORMANCY FOR PERMITS AND PROJECTS**

##### **2.08.001 Purpose, Intent and Applicability**

This Section is adopted pursuant to Section 245.005 of the Texas Local Government Code to provide expiration dates for permits and projects that lack an expiration date under other applicable regulations. This section also applies to any development permit or approval, not only those permits issued under this subdivision ordinance.

## **2.08.002 Dormancy for Individual Permits**

This Section does not apply to a permit that is subject to an earlier expiration date under other regulations applicable to the permit.

- A. For purposes of this Section, a permit which has been granted by the City but is not subject to an expiration date under such other regulations is an "unexpired permit."
- B. If the application for an unexpired permit was filed prior to the effective date of this Section, the individual permit shall expire two years after the effective date of this Section, unless the applicant submits evidence sufficient to show that progress towards completion of the project (as defined in LGC Section 245.005(c)).
- C. If the application for an unexpired permit is filed after the effective date of this Section, the individual permit shall expire two years after the date the permit is approved, unless the applicant submits evidence sufficient to show that progress towards completion of the project (as defined in LGC Section 245.005(c)).

## **2.08.003 Dormancy for Projects**

- A. For projects which require a series of permits, a project shall expire on the fifth anniversary of the date on which the first permit application was filed for the project unless the applicant submits evidence sufficient to show that progress towards completion of the project (as defined in LGC Section 245.005(c)).

PASSED AND APPROVED on this the first reading the \_\_\_\_ day of May, 2021.

PASSED, APPROVED, and ADOPTED on this the \_\_\_\_ day of May, 2021.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney