

ORDINANCE NO. 22

**AN ORDINANCE ESTABLISHING A MORATORIUM
ON PLANNING COMMISSION APPROVAL OF
ANY SUBDIVISIONS, LARGE SCALE DEVELOPMENTS,
OR LOT SPLITS; ON ISSUING BUILDING PERMITS
REGARDING NEW CONSTRUCTION OF OR IMPROVEMENT TO
STRUCTURES; AND PLACING MOBILE HOMES OR JUNK
YARDS WITHIN THE CORPORATE LIMITS AND
PLANNING AREA OF THE CITY OF GOSHEN, ARKANSAS;
AND TO DECLARE AN EMERGENCY AND FOR OTHER PURPOSES**

WHEREAS, the lawsuit, *Andy Bethell, et al. v. Town of Goshen, AR, et al.*, Case No. CV-02-621, in the Circuit Court of Washington County, Arkansas has resulted in an agreed order to be entered by the Circuit Court of Washington County on October 9, 2002, which order invalidates all zoning ordinances, subdivision restrictions, lot size restrictions, building code restrictions and building permit requirements and fees; and,

WHEREAS, the City of Goshen has retained the services of the Northwest Arkansas Regional Planning Commission to assist in accomplishing the necessary steps to enact all the necessary and appropriate ordinances to replace those rendered invalid by the Court's order; and,

WHEREAS, as a result of the process described above, there may be a time period when the City of Goshen will have no zoning ordinances in place, and as such, would subject the City and its citizens to development that would not preserve and promote a wholesome, serviceable, and attractive community, and generally tend to diminish the well-being of the City and its residents; and,

WHEREAS, it is the desire of the City of Goshen to preserve the status quo of development within the corporate limits of the City and its planning area for the above purposes, until such time as new zoning ordinances, rules, and regulations come into effect, and,

WHEREAS, the Court's order in *Andy Bethell, et al. v. Town of Goshen, AR, et al.*, Case No. CV-02-621, in the Circuit Court of Washington County, Arkansas creates a need to address the planning issues of the City of Goshen in an expedited manner, thereby creating an emergency; and,

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

SECTION 1. That a moratorium on the approval of subdivision plats, large scale development or lot splits within the corporate limits and planning area of the City of Goshen shall be in effect for a period of sixty-five (65) days following the date of the enactment of this Ordinance, and that the Planning Commission of the City of Goshen shall not take any further actions to consider subdivision plats, large scale development or lot splits during such time. The

planning commission of the City of Goshen, during the moratorium created hereby, shall be authorized to address requests for lot splits the end result of which will not result in any tract falling below the minimum area requirement as set forth in Ordinance No. 21 of the City of Goshen.

SECTION 2. That a moratorium on the issuance of building permits on all new construction of, or improvement to, structures within the corporate limits of the City of Goshen shall be in effect for a period of sixty-five (65) days following the date of the enactment of this Ordinance, and that the City of Goshen shall issue no building permits during such time. Nothing contained herein shall be construed as requiring the cessation of construction of a building or structure for which a building permit was previously issued by the City of Goshen. During the moratorium, except as provided hereafter, no one in the corporate limits of the City of Goshen shall be permitted to construct a building or structure or make improvements to a building or structure, if such construction or improvements are of the type that would have required a building permit under the Goshen ordinances. A party, who desires to initiate construction of a building or structure during the moratorium, may do so only if that party hires a building inspector who is independent of the owner, builder or any subcontractor and who inspects all phases of construction and before occupancy, provides a certificate to the City Recorder certifying: (i) independence from all parties involved in the ownership or construction of the building; (ii) that the building was constructed in compliance with the current state codes, including, without limitation, the state plumbing code, the state mechanical code, the state gas code; the national electric code; and the current version of the Standard Building Code of Southern Building Code Congress International(SBCCI); and (iii) experience and familiarity with the applicable codes. For purposes of this ordinance, the person hired as a building inspector must be certified as required by the standards of the SBCCI Standard Building Code.

SECTION 3. During the moratorium, no one shall be permitted to place any mobile home or manufactured home, junk yard or auto salvage business on a tract of land in the corporate limits of the City of Goshen.

SECTION 4. PENALTY. Any owner of property subject to this ordinance, on whose property, a mobile home or manufactured home is placed during this moratorium, junk yard or auto salvage business is begun during this moratorium, or construction or improvements occur in violation of this ordinance shall be considered in violation of this ordinance. Any builder or contractor constructing a building or structure or making improvements not in compliance with this ordinance shall be considered in violation of this ordinance. Any person who violates this ordinance shall be subject to a fine or penalty up to \$250 for each violation. For purposes of this ordinance, each day of activity proscribed as unlawful under this ordinance shall be considered a separate violation for which the party violating the ordinance shall be subject. Any violation shall be referred to the City Attorney who shall apply to the appropriate court for relief, seeking either penalties or injunctive relief as permitted by law.

SECTION 5. That the moratorium period as established in this Ordinance may be extended if, at the expiration of such period, there exists no current, effective, and/or enforceable zoning ordinances, rules, and regulations for the City and its planning area. If not extended, this

Ordinance shall expire on midnight of the 65th day after its enactment.

SECTION 6. For purposes of this Ordinance, the words "building" or "structure" shall have their common and ordinary meaning, and shall be defined further by any improvement which would have required a building permit under the current requirements of the City of Goshen.

SECTION 7. EMERGENCY CLAUSE: 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 8th day of October, 2002.



Mayor

ATTEST:



City Recorder

APPROVED AS TO FORM:



Charles Harwell, City Attorney

ROLL CALL

Names Of Those Voting YEA

James Boyd

Jim Northup

Max Poye

Fred Wizer

Names Of Those Voting NAY

Andy Bethell