

ORDINANCE NO. 25

AN ORDINANCE OF THE CITY OF POST OAK BEND, TEXAS, ADOPTING SUBDIVISION REGULATIONS; EXTENDING THE SUBDIVISION REGULATIONS TO THE CORPORATE LIMITS AND THE EXTRATERRITORIAL JURISDICTION OF THE CITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Post Oak Bend wishes to adopt subdivision regulations governing plats and subdivisions of land within the City's jurisdiction to provide for the safety, morals and general welfare of the City and the safe, orderly and healthful development of the City and its extraterritorial jurisdictions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POST OAK BEND, TEXAS:

SECTION 1. There are hereby adopted rules governing plats and subdivisions of land within the corporate limits of the City of Post Oak Bend and within its extraterritorial jurisdiction. Such subdivision rules and regulations are attached hereto as Exhibit "A" and made a part hereof for all purposes, the same as if fully copied herein, and shall henceforth be known as the "City of Post Oak Bend Subdivision Ordinance."

SECTION 2. That all provisions of the ordinances of the City of Post Oak Bend in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional.

SECTION 4. This ordinance shall take effect immediately from and after its passage, as the law in such cases provides.

DULY PASSED by the City Council of the City of Post Oak Bend, Texas, on this 9th day of November 2006.

APPROVED:

Larry Tigert
MAYOR

APPROVED AS TO FORM:

Robert L. Dillard, III
CITY ATTORNEY (10/05/06/RLD/mew/70684)

ATTEST:

S. S. Demashe
CITY SECRETARY

Post Oak Bend Subdivision Regulations



POST OAK BEND Subdivision Ordinance

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ARTICLE ONE: FINDINGS AND PURPOSE

1.1 Findings

1.1.1. Upon review and consideration of the best facts at its disposal, the City Council of the City of Post Oak Bend (hereinafter "City") finds that:

- a) The City has the authority and obligation to protect the general public health, safety and welfare of the citizens of Post Oak Bend.
- b) The City is located near one of the major urban areas of the United States and will experience rapid population growth, agricultural land conversion and urbanization;
- c) The United States Census Bureau study issued March 16, 2006 reports that Kaufman County ranked as the eighth fastest growing County (with 10,000 or more population) in Texas in 2005, based on population increase between 2000 and 2005;
- d) Demographic studies prepared by the Texas State Data Center and other reputable sources predict continued rapid land development and population growth for the Dallas area in general and for Kaufman County and the City in particular during the coming decades;
- e) Rapid population growth and development, without proper regulation and management, have caused both economic and environmental problems in other communities, and would be likely to strain City infrastructure, devalue existing property, impose an unwarranted tax burden on the citizens of the City, threaten the natural resources and natural beauty of the City, and adversely affect the public health and safety;
- f) A number of studies and reports, including one at the University of Texas (*Managing Growth Pressures in Unincorporated Texas: Problems and Options for Change*, by Dr. Robert Paterson and Schleen Johnson, School of Architecture, Community and Regional Planning, 1998), document the particular need for careful regulation of subdivision and development activity in suburban and "urban ring" counties, such as Kaufman, citing potentially serious threats to traffic management, traffic safety, road maintenance, 9-1-1 addressing, emergency response, adequate water and utility availability, wastewater and disease control, and floodplain management;
- g) Case studies compiled by the Texas Association of Counties (*Substandard Subdivisions in Texas: Who suffers at what cost*, 1999) illustrate the hardships on individuals and a financial cost to counties when growth and development are inadequately regulated;

- h) In recognition of the special challenges faced by City governments in urbanizing areas, the Texas Legislature cities to regulate infrastructure planning and to adopt rules with respect to subdivision platting that are designed to promote the health, safety, morals, or general welfare of the City;
- i) Kaufman County has been designated by the Texas Commission on Environmental Quality as the authorized agent for licensing and regulation of on-site sewage facilities within the unincorporated areas of Kaufman County;
- j) The City Council has considered the potential burden to property owners and taxpayers of these regulations, and has further considered the potential burden to property owners and taxpayers of substandard development, poor quality roads, flooding, immoral and unhealthful development that might reasonably be expected to occur in the absence of these Regulations; and,
- k) The future well being and prosperity of the City demands that the City adopt an ordinance providing for a thorough set of rules and regulations for the subdivision and development of land, thus to help preserve and protect the natural resources, public health, safety, morals, financial resources, and the private property interests of the City and its citizens.

1.1.2. The City Council of Post Oak Bend, following investigation, consultation with professional engineers and planners, and public hearing, has declared and hereby declares this Subdivision Ordinance to be necessary.

1.2 Purpose

1.2.1. The purpose of this Subdivision Ordinance is to provide for the orderly, moral and healthful development of City of Post Oak Bend, and for the safety, health and well being of the general public. By establishing procedures for the efficient, orderly, and appropriate subdivision and development of land within its City limits and ETJ, the City intends to maintain the quality of life its citizens have come to expect without imposing a burden to the taxpayers. This ordinance and the regulations it promulgates are for the regulation of subdivisions in City of Post Oak Bend.

1.2.2. All departments and agencies of City of Post Oak Bend stand ready to assist individuals, builders, and developers in achieving overall performance standards as outlined in this ordinance.

1.2.3. In specific cases where strict, literal interpretation of any section would work an undue hardship, variances may be sought provided that the overall performance standards are met. It should not be inferred, however, that specific requirements might be ignored.

Enforcement authority and penalties for violations are outlined in this ordinance and the City Council will pursue the City's legal rights to gain compliance. If any questions arise as to the interpretation of the language in any section, the City Council or its Designated Agent will resolve all differences.

1.2.4. This ordinance is in no way intended to restrict residential or commercial development in the City. Rather, it is hoped that through public and private sector cooperation, the City can achieve and maintain a quality and standard of life that reflects the highest traditions and standards of its citizens.

1.2.5. This Subdivision Ordinance applies to the incorporated and the ETJ areas of the City.

ARTICLE TWO: ENFORCEMENT, PENALTIES AND JURISDICTION

2.1 Enforcement and Penalties

2.1.1. The City Council of the City of Post Oak Bend shall have the authority to refuse to approve and authorize any map or plat of any subdivision, unless such map or plat meets the requirements of this Subdivision Ordinance.

2.1.2. At the request of the City Council, the City Attorney may file an action in a court of competent jurisdiction to:

- a) Enjoin the violation or threatened violation of a requirement established or adopted by the City Council of the City of Post Oak Bend under chapter 212 of the Texas Local Government Code; or,
- b) Recover damages in an amount adequate for the City to undertake any construction or other activity necessary to bring about compliance with a requirement established or adopted by the City Council under Chapter 212 of the Texas Local Government Code.

2.2 Jurisdiction

2.2.1. The provisions of this ordinance shall apply to all of the incorporated areas and ETJ of the City of Post Oak Bend, Texas.

2.2.2. For property within an unincorporated area of the County and also within the City's ETJ, applicants should consult with the City to determine which rules apply.

ARTICLE THREE: DEFINITIONS

3.1 General Usage

3.1.1. Words not defined shall generally be construed to have their customary meaning in American English usage.

3.2 Terms

3.2.1. Base Flood Plain - Area subject to inundation by flood, having a one percent probability of occurrence in any given year, based on existing conditions of development within the watershed area, as determined by the Flood Insurance Study for City of Post Oak Bend provided by the Federal Emergency Management Agency (FEMA).

3.2.2. Building Line Or Setback Line - A line established, in general, parallel to the street. No building or structure may be permitted in the area between the building line and the street right-of-way.

3.2.3. City Council - The City of Post Oak Bend City Council.

3.2.4. City Engineer - The City Engineer.

3.2.5. City Surveyor - Registered Professional Land Surveyor appointed by the City Council.

3.2.6. Court Order – The City of Post Oak Bend Subdivision Ordinance including the City's On-Site Wastewater Regulations as approved by the State of Texas.

3.2.7. Cul-de-sac - A street having on one end a single outlet to another street with a vehicular turnaround at the opposite end. Cul-de-sacs are generally not allowed.

3.2.8. Deed Restrictions – A restrictive covenant expressed in a contract between the buyer and the seller of real property that imposes duties on the buyer or restricts the buyer's use of the land. These restrictions are usually expressed in the form of language in the deed to the property. Deed Restrictions are not enforced by the City.

3.2.9. Designated Agent – The person, department or firm designated by the City Council to administer these Rules and Regulations. If no Designated Agent is named by the City or the term of the Designated Agent has expired, then the Mayor shall be presumed to be the City's Designated Agent.

3.2.10. Developer - Persons, corporations, organizations, government or governmental subdivision or agency, estates, trusts, partnerships, associates, corporations or other entities, which undertake the activities covered by these regulations.

3.2.11. Easement - A right given by the owner of a parcel of land to another person, public agency or private corporation for specific and limited use of that parcel.

3.2.12. Engineer - Any person registered and currently licensed to practice engineering by the Texas State Board of Registration for Professional Engineers.

3.2.13. ETJ – See Extraterritorial Jurisdiction below.

3.2.14. Extraterritorial Jurisdiction - The unincorporated area, not a part of any city, which is contiguous to the corporate limits of any city. The extraterritorial jurisdiction of the various population classes of cities (as defined in Texas Local Government Code §42.021) shall be as follows:

The extraterritorial jurisdiction of any city having a population of less than five thousand (5,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within one-half (½) mile of the corporate limits of such city;

3.2.15. FEMA - Federal Emergency Management Agency.

3.2.16. Flag Lot – A Flag Lot is a lot designed to provide a minimum avenue of road access or frontage while allowing other lots to be stacked around it, so that the result is a lot which is often shaped like a flag, with a “flag pole” stretching out to the nearest road – and other “flag poles” adjacent, leading to more Flag Lots. Flag Lots are generally not allowed.

3.2.17. Gated Subdivision - A limited access subdivision. See definition of “Subdivision,” below.

3.2.18. GIS - Geographic Information Systems.

3.2.19. GPS - Global Positioning System.

3.2.20. Lot - An undivided tract or parcel of land, having frontage on a road, which is designated as a separate and distinct tract. All lots, so far as practical, shall have their side lines at right angles to the road on which they face, or radial to curved road lines.

3.2.21. May - is permissive.

3.2.22. Manufactured Home Community - A plot or tract of land in the ETJ that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

3.2.23. NCTCOG - North Central Texas Council of Governments.

3.2.24. Plat - A map depicting the division or subdivision of lands into lots, blocks, parcels, tracts, or other portions. A replat of a subdivision will be considered a plat.

3.2.25. Plat, Final - A map or drawing and any accompanying material of a proposed land subdivision prepared in a form suitable for filing in the City records with necessary affidavits, dedications and acceptances, and with complete bearing and dimensions of all lines defining lots, blocks, streets, alleys, public areas, 911 addressing and other important information, and prepared as described in this ordinance.

3.2.26. Plat, Preliminary - One or more drawings showing the physical conditions of a tract of land and the surrounding area intended to be subdivided. This plat shall be of sufficient detail to illustrate the intended development program in order to assure compliance with these regulations.

3.2.27. Regulations – “Regulation” or “Regulations” refer to this document, the City of Post Oak Bend Subdivision Ordinance. They are used interchangeably with “Rules.” See also Rules.

3.2.28. Rules – “Rule” or “Rules” refer to this document, the City of Post Oak Bend Subdivision Ordinance. They are used interchangeably with “Regulations.” See also Regulations.

3.2.29. Shall - Is mandatory and not discretionary.

3.2.30. State Plane Coordinate System - A coordinate system used by States to locate spatial information with a high degree of accuracy. This coordinate system is widely used in north central Texas for GIS purposes.

3.2.31. Subdivider – One who is creating a subdivision.

3.2.32. Subdivision - Any tract of land located inside the limits of a municipality or its ETJ, and which is divided into two or more parts to lay out lots or streets, alleys, squares, parks, or other parts of the tracts intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A division of a tract is a subdivision within the meaning of this definition, regardless of whether it is made by using a metes and bounds description in a deed of conveyance, or in a contract for a deed, by using a contract of sale or other executor contract to convey, or by using any other method.

3.2.33. Surveyor - Any person licensed to practice surveying by the Texas Board of Professional Land Surveying.

3.2.34. TCEQ – Texas Commission on Environmental Quality.

3.2.35. TXDOT - Texas Department of Transportation.

3.2.36. Variance – An adjustment in the application of specific regulations of the Subdivision Ordinance to a parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity. Only the City Council may grant a variance.

3.2.37. Wrecking yard (junkyard or auto salvage) – Any lot upon which three or more motor vehicles of any kind, which are incapable of being operated due to condition or

lack of current registration and/or current state inspection, have been placed for the purpose of storage, obtaining parts, recycling, repair or resale.

ARTICLE FOUR: PLATTING PROCEDURE

4.1 Concept Plan

4.1.1. Prior to the submission of a Preliminary Plat of the subdivision of land within the jurisdiction of the City, a Developer shall submit a Concept Plan to the City Council. The Concept Plan will demonstrate an intent to subdivide and will provide the subdivider the opportunity to convey and discuss the general concepts of his proposed subdivision, including specific details, applicable policies, laws, etc., at an early stage in the subdivision process.

4.1.2. The Concept Plan should contain the following information:

- a) A vicinity map of the tract to be subdivided;
- b) The approximate location of all existing structures;
- c) The names of the owners of all property adjoining the tract as disclosed by the most recent Central Appraisal District records;
- d) All existing streets, roads, wet and dry weather water courses, and other significant physical features;
- e) The approximate location of proposed streets and property lines;
- f) The proposed water supply source for the tracts;
- g) The sewage disposal system to be used on the tracts;
- h) A north arrow and a graphic scale;
- i) The direction of and the approximate distance(s) to the nearest major road or highway intersections.

4.1.3. The City Engineer and the City Council will review the Concept Plan as soon as practicable after receipt. A report will be given to the subdivider stating their opinions as to the merits, general feasibility, and recommendations for the project.

4.2 Preliminary Plats

4.2.1. The Subdivider or Developer must prepare a Preliminary Plat and submit five (5) black line copies or reproductions to the City Council.

4.2.2. If Developer submits an incomplete application, the City Council shall, not later than the tenth (10th) business day after the date the City Council receives the Preliminary Plat, notify the Developer of the missing information. The City Council shall allow the applicant time to submit the missing information.

4.2.3. In no event shall a Preliminary Plat be submitted to the City Council later than twenty-one (21) calendar days before the meeting at which the approval of the City Council is requested.

4.2.4. A non-refundable fee shall be submitted with the Preliminary Plat (see Appendix B, Fee Schedule). If additional engineering services are required, the Developer shall be required to pay for such.

4.2.5. The submission of a Preliminary Plat is necessary to:

- a) Eliminate the duplication of subdivision names and street names;
- b) Assure proper alignments of streets and drainage facilities;
- c) Assure that the provisions of the Floodplain Regulations will be complied with and that no lots will have drainage problems;
- d) Assure that the provisions of the sewer regulations of the County will be complied with;
- e) Assure that all necessary permits or plan approvals have been or will be procured;
- f) Assure conformance with the City of Post Oak Bend Thoroughfare Plan and / or Regional Transportation Plan, if applicable;

4.2.6. Preliminary Plats must be approved by the City Council before a Final Plat can be submitted.

4.2.7. Preliminary Plats shall be drawn on a 24" X 36" sheet at a scale no smaller than one inch = 200 feet, except in those instances where the city is exercising its ETJ authority and requires a different sheet size and/or scale, or upon prior approval of the City Council.

4.2.8. Preliminary Plats shall show, or be accompanied by, the following information:

- a) The name, address and telephone number of the owner, developer, surveyor and/or engineer;
- b) The proposed name of the Subdivision, and the names, locations, width and dimensions of all proposed and existing streets within the

property (proposed names must not duplicate or be easily confused with other Subdivisions or roads located in City of Post Oak Bend);

- c) The location of existing boundary lines in sufficient detail to accurately locate the property;
- d) The description, location, width and dimensions of proposed and existing utility and pipeline easements within and adjacent to the property;
- e) The name, location and dimensions of all adjacent Subdivisions and streets. Where there are no adjacent Subdivisions, the Preliminary Plat shall show:
 - The names of all adjacent property owners with the volume and page of recordation;
 - The location and distance to the nearest Subdivisions and how the streets in the proposed Subdivision may connect with those in the nearest Subdivisions or other roads in the area;
- f) Existing and proposed contour lines at the following intervals:
 - When the land has less than a five percent slope, the contour interval shall not be greater than two feet;
 - When the land has more than a five percent slope, the contour interval shall not be greater than five feet;
- g) The exact location, dimensions, description and flow line of all existing and proposed drainage structures;
- h) The location of the 100-year floodplain and all lots, or any part of a lot that lies within the 100-year floodplain;
- i) The date the plat was prepared;
- j) A north arrow and graphic scale no smaller than 1 inch = 200 feet;
- k) A location or vicinity map showing the location of the proposed Subdivision within the City and to the nearest incorporated areas with a north arrow and scale of the vicinity map;
- l) Surveyor must research Local Thoroughfare and Regional Transportation Plans and address right of way issues relating to “proposed” roads. A statement acknowledging thoroughfare / transportation locations in respect

to proposed development must be on the Preliminary and Final Plat along with accommodations for plans;

- m) Preliminary water, sewer and drainage plans if applicable;
- n) Sixty foot (60') buffer around existing physical features including, but not limited to: family cemeteries; monuments; and historic burial grounds;
- o) Letter from the City of Post Oak Bend Historical Commission shall be required stating whether there are any objects of historical significance within the proposed Subdivision:
 - Letter shall be provided within fourteen (14) working days of request;
- p) Identification of the proposed uses of land within the Subdivision. Indicate areas for residential, commercial, industrial or public use; such as parks, churches, etc. All information listed above is considered to be the minimum amount of information needed to assure compliance with this Court Order. Any deviations from above items shall have the written approval of the City Council, prior to submission of the Preliminary Plat.

4.2.9. If the proposed Subdivision is a portion of a tract which is later to be subdivided in its entirety, then a tentative Master Plan of the entire Subdivision shall be submitted with the Preliminary Plat of the portion to be subdivided first.

4.2.10. The City Council and Department of Public Works will review the Preliminary Plat and send written comments to the Developer stating the conditions of approval, if any.

4.2.11. Approval of the Preliminary Plat does not constitute acceptance of the Subdivision, but is merely an authorization to proceed with the preparation of the Final Plat. The approval of the Preliminary Plat will be in effect for one year.

4.2.12. The 9-1-1 Coordinator shall assign emergency numbers and addresses after approval of the Preliminary Plat by the City Council.

4.2.13. No grading of streets or construction is authorized in the Subdivision before City Council approves the Final Plat, except as approved by City Council.

4.2.14. Conveyance or sale of lots depicted on a Preliminary Plat shall not be permitted until the Final Plat has been approved and all new roads have been built and approved by City's Design Engineer.

4.2.15. Upon City Council approval of a Preliminary Plat, a Developer may make written request to the City Council to commence construction of roads, streets, utilities and drainage structures within the right-of-way. This request may be granted, upon the City

Engineer's review and City Council's approval of the construction plans and other materials required in Article Four, Section 4.3.

- a) If the roads are constructed and approved by the City prior to Final Plat approval, a construction bond will not be required for the constructed facilities.

4.3 Final Plats

4.3.1. The Final Plat must be submitted no later than twelve (12) months after Preliminary Plat approval, unless the City Council grants an extension for the submission of the Final Plat for a period not exceed six (6) months. If the Final Plat is not submitted within said time, a new Preliminary Plat under the then existing Subdivision Ordinance will be required.

4.3.2. The Final Plat shall be submitted with a fee to be paid to the City (see Appendix B, Fee Schedule).

4.3.3. A copy of the Final Plat shall also be submitted for review to the City Surveyor.

4.3.4. The submission of a Final Plat is necessary to:

- a) Assure proper identification and location of all streets, lots and easements;
- b) Assure that the streets will be properly constructed and maintained;
- c) Assure that the sewage disposal systems are in compliance with the TCEQ approved On-Site Wastewater Rules for the City of Post Oak Bend;
- d) Assure that all proper dedications have been made for streets, easements and public spaces;
- e) Assure that all necessary permits have been procured.

4.3.5. A Final Plat is required, unless the Subdivision meets the requirements for exceptions as set forth in §212.004 of the Texas Local Government Code. Specifically, a Subdivision Plat is required if the owner of a tract divides the tract into two or more parts to lay out a Subdivision of the tract, including an addition; lots, or; streets alleys, squares, parks, or other parts of the tract intended to be dedicated to the public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, unless:

- a) The owner does not lay out a part of the tract described by Section 212.004 (a) in the Texas Local Government Code; and

- b) The land is used primarily for agricultural use, as defined by Section 1-d, Article VIII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use, within the meaning of Section 1-d-1, Article VIII, Texas Constitution; or,
- c) The tract is divided into four or fewer parts and the parts are sold, given, or otherwise transferred to an individual who is related to the owner within the third degree of consanguinity or affinity, as determined under Texas Government Code, Chapter 573; or,
- d) All lots of the Subdivision are more than 10 acres; or,
- e) All lots are sold to veterans through the Veteran's Land Board program; or,
- f) The tract is owned by the state or other state agency, board, or commission or is owned by the permanent school fund or any other dedicated funds of the state; or,
- g) The owner of the land is a political Subdivision of the state, the land is situated in a floodplain and the lots are sold to adjacent landowners; or,
- h) One new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirement of this Ordinance; or,
- i) All parts of the tract are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.

4.3.6. The Developer shall submit to the City Council the original on Mylar and three black line copies of the Final Plat, at least twenty-one (21) calendar days prior to the City Council approval.

4.3.7. Final Plats shall be drawn on an 18" x 22" translucent Mylar sheet at a scale no smaller than 1 inch = 200 feet.

4.3.8. The following statement shall be contained on the face of the Final Plat:
 "CONSTRUCTION NOT COMPLETED WITHIN ONE YEAR OF THE RECORDING DATE SHALL BE SUBJECT TO CURRENT CITY STANDARDS AND ORDINANCES. THE CITY MAY REQUIRE THE SUBDIVISION TO BE RE-PLATTED."

4.3.9. The following statement shall also be noted on the face of the Final Plat:

- a) Blocking the flow of water or construction improvements in drainage easements and filling or obstruction of the floodway is prohibited;
- b) The existing creeks or drainage channels traversing along or across the subdivided tracts will remain as open channels and will be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the creeks or drainage channels;
- c) City will not be responsible for the maintenance and operation of drainage ways for the control of erosion located on private property;
- d) City will not be responsible for any property damage, property loss, personal injury or loss of life caused by flooding or flooding conditions.

4.3.10. In addition to the requirements for Preliminary Plats, Final Plats shall contain or be accompanied by the following information:

- a) A written list of any and all changes made to the Final Plat that differ from the Preliminary Plat;
- b) The name of the Subdivision, the names of the streets, the date that the plat was prepared, a north arrow and a graphic scale;
- c) Sufficient data to reproduce on the ground, the bearing and length of all streets, blocks, lots and easements. Curves on streets, blocks and easements shall include the radius, length and central angle of the curve. Curves on lots shall show the radius and length of the curve;
- d) The accurate location of adjacent Subdivision streets, blocks, lots and easements, or the property owner, if the adjacent land is undeveloped;
- e) The size of each lot in square feet and in acres;
- f) The number of all lots and blocks arranged in a systematic order and clearly shown on the plat in distinct and legible figures;
- g) The 100-year floodplain as identified on the most current Post Oak Bend City Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency;
- h) A legal description of the property located with respect to an original corner of the original survey of which it is a part, and the number of acres being subdivided. All blocks, corners and angles shall be marked in accordance with minimum standards set forth by the Texas Board of

Professional Land Surveyors. All corners shall be marked with caps stamped with the surveyor and/or company name;

- i) A dedication, by the Developer, of all streets, roadways, alleys, utility easements, parks, conservation easements, and other land intended for public use, and the Developer's certification that all parties with any interest in the title to the subject property have joined in such dedication, duly executed, acknowledged and sworn to by said Developer before a Notary Public;
- j) The Final Plat must clearly indicate which roads, streets or drives contained within the Subdivision are privately owned and by whom. The owner[s] of any private roads, streets or drives contained within it must sign the Final Plat;
- k) The following statement shall appear on any plat containing private streets, drives, emergency access easements, recreation areas, open spaces, drainage structures and / or detention ponds: "CITY OF POST OAK BEND SHALL NOT BE RESPONSIBLE FOR MAINTENANCE OF PRIVATE STREETS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS, OPEN SPACES, DRAINAGE STRUCTURES, AND / OR DETENTION PONDS, AND THE OWNERS SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF PRIVATE STREETS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS, OPEN SPACES, DRAINAGE STRUCTURES AND DETENTION PONDS AND SAID OWNERS AGREE TO INDEMNIFY AND SAVE HARMLESS CITY OF POST OAK BEND FROM ALL CLAIMS, DAMAGES AND LOSSES ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE OBLIGATIONS OF SAID OWNERS SET FORTH IN THIS PARAGRAPH."
- l) The seal and signature of the Surveyor responsible for surveying the Subdivision and/or the preparation of the plat;
- m) A copy of the Deed Restrictions / Covenants to be imposed within the proposed Subdivision must accompany the Final Plat. These restrictions shall include the following data:
 - If sewage disposal is to be done by means of a private sewage facility, the restriction shall indicate that a private sewage facility license shall be obtained from the City of Post Oak Bend Public Works Department for each lot within the Subdivision;
 - All driveway culverts shall be sized and installed in accordance with the policies of City of Post Oak Bend;

- No building construction shall be allowed until the Final Plat has been filed and all new roads have been built and approved by City Designed Engineer;
- n) A space for the approval of the Mayor of the City of Post Oak Bend, Texas;
 - o) A statement of approval of plans from all conservation districts, municipal utility districts, or drainage districts; or other “special taxing districts” within which the Subdivision falls, in whole or in part;
 - p) A certificate from each Tax Collector of a political Subdivision, in which the property is located, stating that all taxes are paid and not delinquent and showing that rollback taxes are paid;
 - q) A certificate stating the Subdivision’s water supply and sewerage system plans have approval from the appropriate State agency or Department of Public Works and the Water Coop, Association or Corporation. A letter from the Kaufman County Public Works Department stating that the 911 addresses and floodplain issues have been resolved;
 - r) A letter furnished by City Surveyor stating that Final Plat has been reviewed;
 - s) All necessary engineering and/or construction drawings/plans, where applicable, which have been signed, dated and sealed by a registered professional civil engineer, who is licensed in the State of Texas; and
 - t) An appropriate construction bond or financial security to assure the City that all roads and streets within the Subdivision will be constructed in accordance with this Ordinance. Financial security must be arranged in one of the following ways:
 - A Construction Bond filed by the Subdivider payable to the City of Post Oak Bend in the amount of 100% of the cost of construction. The bond must be a surety bond provided by a surety company licensed to conduct business within the State of Texas; or,
 - The Sub-divider may escrow funds to include certificates of deposit or other financial instruments as may be deemed satisfactory by the City Council in the amount of the total cost of construction;

All information listed in items above is considered to be the minimum amount of information needed to assure compliance with this ordinance. Any deviations shall have the written approval of the City Council or its Designated Agent prior to submission of the Final Plat.

4.3.11. The City Council may refuse to approve a plat if it does not meet the requirements prescribed by these Rules or if any bond required under these Rules is not filed with the City.

4.3.12. After the plat has been approved and signed by the Mayor, the plat will be returned to the Subdivider for recording with City Secretary. The Final Plat shall be filed with the City Clerk within two working days after it was approved.

4.3.13. To file the approved Subdivision for record in the City Clerk's Office, the owner or a representative must present the original signed 18"x 22" mylar, two black line copies and an electronic version of the drawing, along with the appropriate fee.

- a) To be accepted for filing, all electronic copies must have all signatures and dates in place (Must be scanned after signing);
- b) All signatures must be in wide black pen and all seals must be distinct and in black ink.

4.4 Construction Plans

4.4.1. All construction plans, drawings and calculations shall be prepared by a Registered Professional Engineer licensed to practice in Texas, and shall be marked with the appropriate seal. All plans shall conform to generally accepted engineering and construction practices.

4.4.2. Two sets of all construction plans must be submitted to and approved by the City Council, unless a waiver is granted prior to the start of any construction. The construction plans shall consist of:

- a) Street plans, including signage which shall conform to the Manual of Uniform Traffic Control Devices;
- b) Drainage plans, including outfall channels, storm sewers and inlets design;
- c) Plans for water system, detailing a minimum 8 inch main looped and fire hydrants on 400-foot intervals;
- d) Plans for sewage treatment and sewer system, if applicable;
- e) Plans for adjustment of utility lines and pipelines;

- f) Location and description of all easements.

4.4.3. STREET CONSTRUCTION plans shall show:

- a) The plan of the street, no smaller than a one inch = 50 feet scale, showing the location of the proposed pavement, ditches and drainage structures within the street right-of-way;
- b) The profile of the street, no smaller than a one inch = 50 feet scale horizontal and a one inch = five feet scale vertical;
- c) The street grades and elevations;
- d) Vertical and horizontal curve information;
- e) The ditch grades, design flow of water, design depth of water and design velocity of water;
- f) Typical street sections;
- g) The seal and signature of the engineer responsible for the design on all sheets.

4.4.4. DRAINAGE CONSTRUCTION plans shall show:

- a) The plan of the drainage ditches, no smaller than a one inch = 50 feet scale;
- b) The profile of the drainage ditches, no smaller than a one inch = 50 feet scale horizontal and a one inch = five feet scale vertical;
- c) The ditch grades, design flow of water, design depth of water and design velocity of water;
- d) A plan and profile of all culverts under any street with the design flow of water, headwater and tail water depths and the tail water velocity;
- e) The size of all driveway culverts to carry the design flow of water at each lot in the Subdivision when the culvert is installed at the designed ditch grade;
- f) Typical ditch sections;
- g) The seal and signature of the engineer responsible for the design on all sheets.

4.4.5. **WATER CONSTRUCTION** plans shall show:

- a) The location and size of all proposed water lines in relation to the right-of-way or easements in which the lines are to be located;
- b) The location of all appurtenances proposed to be installed;
- c) The minimum depth to which the water lines are to be installed;
- d) The seal and signature of the engineer responsible for the design on all sheets.

4.4.6. **SEWER CONSTRUCTION** plans shall show:

- a) The plan of the sewer line, no smaller than a one inch = 50 feet scale, showing the location and size of all proposed sewer lines in relation to the right-of-way or easements in which the lines are to be located;
- b) The profile of the sewer line, no smaller than a one inch = 50 feet scale horizontal and a one inch = five feet scale vertical;
- c) The location of all appurtenances proposed to be installed;
- d) The sewer line grades and elevations at all junction points;
- e) The seal and signature of the engineer responsible for the design on all sheets.

4.4.7. All construction plans, water plans and sewage plans shall be submitted with the Final Plat.

4.4.8. City Council will retain one set of construction plans for review and return one set of the construction plans to the Developer stating:

- a) That the plans have been approved; or
- b) That the changes that will need to be made before the plans will be approved.

If any changes are required, the Developer shall have the necessary changes made and submit two copies of the corrected plans to the City Council. If all necessary changes have been made, City Council will return one set of the corrected plans to the Developer stating that the plans have been approved.

ARTICLE FIVE: UTILITY SERVICE REQUIREMENTS

5.1 Water Service

5.1.1. The owner(s) must submit a plan for providing utility service within the proposed Subdivision. The proposed water supply should be clearly indicated, i.e., municipal water, rural water supply corporation, privately owned water system, individual well, etc., including location of fire hydrants, if any. All water supplies must be approved by the TCEQ.

5.1.2. Verification must be provided in the form of a letter from the applicable water supplier, accompanied by a copy of the minutes of the board and/or other corporate approval, certifying that the water supply and the proposed meter / water distribution system are sufficient in quality, quantity and pressure to adequately meet future needs of inhabitants of the proposed Subdivision.

5.2 Wastewater Service

5.2.1. The plan for sewage disposal should be clearly indicated, i.e. municipal sewer service, privately owned/organized sewage disposal system, private sewage facilities, etc. If the Subdivider intends that each lot purchaser will provide private sewage facilities to his / her own lot, those facilities must meet the all requirements of City's On-Site Wastewater Rules as approved by TCEQ.

ARTICLE SIX: SUBDIVISION REQUIREMENTS

6.1 Construction, General

6.1.1. Construction of roads and drainage facilities in the Subdivision shall conform to the Standard Specifications for Public Works Construction, as prepared by the North Central Texas Council of Governments, or to any other construction specifications adopted by the City Council.

6.1.2. Upon approval of construction plans – all construction shall be completed within twelve (12) months and in accordance with the terms and specifications contained in this Ordinance.

6.1.3. The Developer shall comply with the requirements listed in the Subdivision Ordinance, some of which include:

- a) A Designated Engineer or City representative shall be engaged for the inspection of the construction at the expense of the Developer;

- b) All construction and testing reports shall be furnished to the City Council, or designee, certifying that the construction requirements of this Ordinance have been met;
- c) Forty-eight (48) hours prior to the commencement of any major construction items, such as sub-grade stabilization and concrete paving, the City Council shall be notified. Saturdays, Sundays and legal holidays shall not be considered as part of the notification period;
- d) The testing results must be approved prior to the construction of the next phase;
- e) The City Engineer, or his authorized agent, shall periodically inspect the construction of all streets, drainage, or other structures in the Subdivision for conformance to the Ordinance and Specifications. Free access to the Subdivision shall be accorded to the Designated Agent or his authorized representative. Neither an inspection by the Designated Agent, nor a failure by the Designated Agent to inspect construction described herein shall in any way impair or diminish the obligation of the Subdivider to install improvements in the Subdivision in accordance with the plans and specifications as approved by the City Council.

6.1.4. The Developer, upon completion of drainage, roads, streets and other facilities intended for the use of the public, or purchasers or owners of lots fronting or adjacent there to, shall request from the City a final inspection.

- a) The request shall contain a statement by the Engineer responsible for the design of said work stating that he has made an inspection of such improvements and recommends their acceptance by the City;
- b) Attached to his letter shall be one set of "as built" drawings showing the work to be accepted for use by the City. A computer diskette or compact disk containing the "as built" plan sheets in the format and medium specified by the City will be submitted in addition to the drawings;
- c) The City Council or his designee will inspect the completed work for compliance.

6.2 Roads/Street Specifications

6.2.1. Construction Standards: The following standards are required on new streets created by the Subdivision, not on existing City roads, state highways or roads bordering the Subdivision. These standards are required for all Subdivision streets, both public and private.

6.2.2. Streets, Where Any Lot Is Greater Than .75 Acre:

- a) Minimum ROW width of 60 feet, unless more is needed for maintenance/or drainage purposes;
- b) Minimum pavement width of 24 feet, with six inches (6") of concrete top surface, with number 3 bars on 18" centers, both ways; and
- c) Sub-grade shall be lime stabilized with 8% (36 lbs per square yards) lime to a depth of six inches, 28 feet in width, unless equivalent is specified by Engineer.

6.2.3. Streets, Where Any Lot Is .75 Acre or Less:

- a) Minimum ROW width of 75 feet, unless more is needed for maintenance or drainage purposes, with the final ROW subject to approval by the City Council or its Designated Agent;
- b) Minimum pavement width of 36 feet, with six inches (6") of concrete top surface as per City specifications;
- c) Sub-grade shall be lime stabilized with 8% (36 lbs per square yards) lime to a depth of six (6") inches, 40 feet in width, unless equivalent is specified by Engineer.

6.2.4. Roads exceeding 100 feet: All roads or streets more than 100 feet in length shall either be connected at both ends to a dedicated street, or be provided with a turnaround having a minimum paved radius 45 feet and a minimum right of way radius of 65 feet on turn-around.

6.2.5. Minimum Grades: All roads or streets shall have a minimum cross slope of 2%, unless equivalent is specified by Engineer.

6.2.6. Existing Roads and Subdivisions: A proposed Subdivision that adjoins or encompasses an existing public street shall provide for the dedication of additional right-of-way, if needed, to ensure that the minimum right-of-way set out by these Regulations is established. Guidelines for expected right-of-way dedications are detailed below:

- a) If the proposed Subdivision abuts only one side of a public street, then a minimum of half of the required right-of-way shall be dedicated by the Subdivision. If the Developer is subdividing or developing along both sides of the street, then the full measure of needed right-of-way may be required by the City;
- b) Where any portion of a road or street has been dedicated in an adjoining Subdivision, adjacent to and along the common property line of the two

Subdivisions, sufficient width of right-of-way must be dedicated in the new Subdivision to meet current standards;

- c) Extensions of existing streets shall be planned and dedicated to allow the extension without any offset or change in right-of-way width that would impair safety and/or hinder proper maintenance;
- d) Where roads or streets in an adjoining Subdivision end at the property line of a new Subdivision, the streets should generally be continued into and through the proposed Subdivision. Where there are no adjacent connections platted, the roads in the new Subdivision shall be a reasonable projection of the roads or streets in the nearest Subdivisions. Where circumstances are unusual or unclear, the City shall consider what constitutes a reasonable application of this rule on a case-by-case basis.

6.2.7. Names of Existing Roads: Roads or streets that are a continuation of any existing road or street shall take the name of the existing road or street.

6.2.8. Signage: Streets must be numbered and marked by the Developer with permanent metal signs in accordance with City Sign Specifications. The Developer shall pay for all street names and traffic control signs prior to Final Plat approval.

6.2.9. Cul-de-sac: A block with a cul-de-sac shall have a limit of 15 lots fronting it.

6.2.10. Intersections: Whenever possible, all roads or streets shall intersect at a 90-degree angle. Where this is not possible, the intersection, on the side of the acute angle, shall be rounded with a curve or a cutback, but in no case, shall the curve have less than a 25-foot radius.

6.2.11. Landscaping of Right-of-Ways: No decorative squares, trees, "islands", ornamental entrances or any other obstruction to traffic shall be constructed or preserved within the right-of-way of a road dedicated to the public without the written permission of City Council or its Designated Agent.

- a) If landscaping and/or irrigation are proposed within the right of way, the owner shall create a body (municipal utility district, homeowners association, neighborhood association, etc.) that will be responsible for the maintenance and liability of the landscaping and/or irrigation system. This body shall have assessment authority to insure the proper funding for maintenance;
- b) It should be understood that these decorative and/or landscaped entrances shall not be dedicated to the City, nor will the City provide any upkeep or maintenance. In the event that these entrances become damaged, unsightly, or a hazard to traffic, at the

option of the City Council, they may be removed with the City suffering no liability for this removal.

6.2.12. Entrances: Access will be limited to Subdivisions on existing roads to provide optimum safety. The entrances and/or exits to a Subdivision shall be by public road or street and each lot shall front upon a public street.

- a) Entrances and exits must be separated from any other intersection of a State Highway or City Road by at least four hundred (400) feet. This distance requirement includes driveways opening to any State Highway or Farm to Market road or any City road that has a traffic count of more than 1000 vehicles per day, as determined by the last TXDOT traffic survey;
- b) Each Subdivision shall have a minimum of two entrances. This requirement cannot be circumvented by use of multiple phases;
- c) Flared entrances to Subdivisions shall be provided to accommodate access by large trucks.

6.2.13. Private Roads: Private roads cannot be included in a Subdivision without prior approval of the City Council. When a request for a private road is received by the Designated Engineer, it will be presented to the City Council for its approval or disapproval.

- a) Private streets, etc. shall conform to the street specifications of the Subdivision Ordinance;
- b) Private streets, roads, emergency access easements, shall be termed as a vehicular access way under private ownership and maintenance;
- c) Gated Subdivisions (security gates or guard stations) are considered privately owned and will be maintained without any City contribution.

6.3 Drainage and Drainage Easements

6.3.1. City Maintenance: The City does not provide maintenance for drainage or drainage easements that are located on private property.

6.3.2. Drainage Standards: All drainage must be designed in accordance with generally accepted engineering standards of the area subject to the approval of the City Council, by a registered profession civil engineer, licensed to practice in the State of Texas. The total costs for such engineering plans and specifications shall be borne by the Owner or the Developer.

- a) Drainage calculations shall be based on the assumption that all the property in the Subdivision and all the area in the watershed will be fully developed; and,
- b) Drainage system shall be designed to not adversely affect property up stream or downstream of the proposed Subdivision.

6.3.3. Roads with Side Ditches:

- a) Side road ditch shall be designed to carry a 10 year frequency runoff;
- b) Cross road culverts shall be designed to carry a 25 year frequency runoff;
- c) Drainage channels shall be designed to carry a 100 year frequency runoff;
- d) The entire Subdivision shall be designed so that no flooding of buildings will occur with a 100-year frequency runoff.

6.3.4. Topography: Whenever possible, streets should conform to existing topography in order to promote suitable drainage.

6.3.5. Natural Drainage: Whenever possible, streets should follow natural drainage patterns so as to form a collection system for surface waters.

6.3.6. Drainage Easements: The area identified as drainage easement will be subtracted from the raw lot size in determination of acceptable lot size for construction.

6.3.7. Drainage easements shall generally be located along the existing drainage way, and shall meet the following standards:

- a) Open channels with top widths from zero to 50 feet require top width plus 25 feet;
- b) Open channels with top widths greater than 50 feet require top width plus 25 feet each side;
- c) Enclosed pipes require 20 feet minimum width;
- d) All easements shall be so designed to allow maintenance equipment to enter the easement and be able to perform the necessary work.

6.3.8. Culverts: Culverts shall be designed and sized by a registered professional engineer and a map or list designating the size and location of all culverts, including driveway culverts, shall be attached to the Final Plat. The Subdivider shall be responsible for notifying builders and lot owners of this requirement and ensuring that properly designed culverts are installed. The minimum culvert size shall be 18”.

6.3.9. Erosion Control: All drainage ways shall be designed to function properly without permitting settlement or erosive velocities. Where specifically designated by the Designated Engineer or City Council, permanent obstacles, such as concrete or rock retards, shall be installed on the sloping sides of drainage ditches and drainage courses to prevent erosion.

- a) All construction, whether public or private, shall comply with the Temporary Construction Erosion Controls Manual incorporated into this Ordinance by reference.

6.3.10. Storm Water Management: All storm water drainage improvements shall be designed based upon the entire contributing drainage area being fully developed (ultimate development).

6.4 Utility Easements

6.4.1. Size and Location: Utility easements shall be a minimum of 15 feet in width, and normally located along a property or lot line. It shall be the duty of the Subdivider to insure that all easements are of the proper width and location to serve the using utility companies.

6.4.2. Utility lines crossings: Utility lines crossings a road shall be installed a minimum of 36 inches below the ditch line. All lines must be encased in metal or PVC schedule 40 pipes a minimum of two feet beyond ditch line.

6.4.3. Petroleum Pipe Line Crossings: If new roads are constructed over existing petroleum pipe line crossings, the pipe lines must meet the following requirements:

- a) Encased pipe must be at least three feet below the deepest proposed ditch grade;
- b) Non-cased pipe (of extra wall thickness meeting Federal Regulations) must be at least four feet below the deepest proposed ditch; and,
- c) No road shall be accepted for maintenance by the City that contains a petroleum pipeline within the right-of-way, other than crossing pipelines.

6.4.4. Right of Way Uses: The right-of-way must be used only for purposes of paving and maintaining streets and installing, continuing and maintaining storm sewers; any additional utilities will require separate utility easements or right-of-ways.

6.5 Lot Sizes and Setbacks

6.5.1. Lot Size: Based on the presence of an on-site sewage facility, the "net" minimum lot size on which development activity shall be allowed is 1.0 acre. This "net" minimum

lot size shall not include any right-of-way, drainage easement, or floodplain area. The minimum lot frontage shall be not less than 100 feet at the building line.

6.5.2. Density without public sewage: Subdivisions not served by public sewage disposal system shall have an average density of not more than one (1) lot per acre.

6.5.3. Density with public sewage: Subdivisions served by public sewage disposal system and have curbed and guttered paved streets or roads, shall have an average density of not more than four (4) lots per acre, at a minimum lot size of one quarter acre net.

6.5.4. Angle of Lot Lines: Side lot lines should normally be at a 90-degree angle to the street.

- a) All straight lines shall clearly show the length of the line, and the plat shall show enough information to readily determine the bearing of all lot lines;
- b) All curved lot lines shall clearly show the length of the arc and radius of the curve, or show enough information on the plat to readily determine the radius of the curve.

6.5.5. Building Set Back: Building and setback lines shall be 50 feet from the edge of the right-of-way on all City roads and private roads and 75 feet from the edge of right-of-way on all state highways and FM roads. No buildings shall be constructed closer than 15 feet from side or rear property lines. Building and setback lines shall be shown on both the Preliminary and Final Plats.

6.5.6. Markers: All lot corners, angle points, and points of curve shall be marked with steel rods of at least 18 inches in length or with concrete markers acceptable to the City's Designated Agent.

6.5.7. Direct Road Frontage and Driveway Spacing: Each lot shall have the minimum direct frontage onto a permitted street set forth below and driveways shall be spaced no closer than the minimum space intervals set forth below, depending on the classification of road onto which the lot has frontage and the driveway has access:

Road Classification	Minimum
Direct Lot	
Frontage	
Minimum Driveway	
Spacing	
City / Private Road	75' None
FM Road	100' 75'
US or State Highway	150' 120'

- a) A Developer with plans that vary from the above minimum direct lot frontage requirements or minimum driveway spacing requirements must appear before City Council for a ruling on said variance.

6.6 Floodplain

6.6.1. Subdivisions / Floodplain: Subdivisions that are located in a flood zone as shown on the current Flood Insurance Rate Map (FIRM) for the City of Post Oak Bend will have the following requirements:

- a) Permanent type benchmarks shall be set in appropriate locations with the description and elevation shown on the plat. The elevation of the benchmark shall be tied to a benchmark shown on the FIRM panel;
- b) All Subdivision proposals shall be consistent with City's Floodplain Regulations;
- c) Flood line shall be shown on the plat;
- d) The finished floor elevation must be shown for each lot located in or adjacent to the floodplain;
- e) The floodplain area of each lot shall be subtracted from the overall lot size to determine minimum lot size;
- f) The provision of and maintenance of drainage for the purpose of flood damage reduction on individual private lots is not the responsibility of the City.

6.7 Mailboxes

6.7.1. Community Mailboxes: For purposes of public safety, the City requires the use of clustered or community mail facilities, whenever possible, to reduce collision hazards within a Subdivision.

6.7.2. An area for cluster mailboxes (per U.S. Postal specifications) shall be provided with adequate off street parking for the pick up of mail deliveries and proper egress and ingress onto the road;

ARTICLE SEVEN: ROAD INSPECTION AND ACCEPTANCE PROCEDURE

7.1 Final Inspection

7.1.1. The Developer, upon completion of drainage, roads, streets and other facilities intended for the use of the public, or purchasers or owners of lots fronting or adjacent thereto, shall request from the City a final inspection.

7.1.2. The City Engineer, or his designee, will inspect the completed work for compliance with the specifications accepted by the City Council.

7.1.3. The Developer will be notified in writing of any work not found in compliance with the Subdivision Regulations.

7.2 Road Acceptance

7.2.1. All conditions of the Final Plat must be met.

7.2.2. No acceptance will be issued until the City's Designated Agent has certified that all improvements have been completed in accordance with these Regulations and good engineering practices.

7.2.3. Acceptance of streets and alley improvements shall be evidenced by an instrument approved by the City Council.

ARTICLE EIGHT: CONSTRUCTION AND MAINTENANCE BONDS

8.1 Construction Bonds

8.1.1. All construction bonds shall be conditioned on and subject to the following:

- a) The bond shall be made payable to the City of Post Oak Bend;
- b) The bond shall be in an amount which is equal to the total construction cost of improvements to ensure proper construction of the roads, streets and drainage requirements for the Subdivision;
- c) The bond shall be executed with sureties as may be approved by the City Council;
- d) The bond shall be executed by a company authorized to do business as a surety in this state, if the City Council requires a surety bond executed by a corporate surety; and
- e) The bond shall be conditioned that the roads, streets, underground utilities, and drainage requirements for the Subdivision will be constructed:
 - in accordance with the specifications as set forth in the NCTCOG Standard Specifications for Public Works Construction as adopted by the City Council and;
 - that said work will be completed within a reasonable time as determined by City Council and in no event longer than one year after approval of the Final Plat;

- f) The construction bond shall remain in full force and in effect until all the roads, streets, street signs, underground utilities required drainage structures and all other construction in the Subdivision have been completed in compliance with the Final Plat and to the satisfaction of the City's Designated Agent and the City Council and until two (2) sets of record 'as built' plans and a computer disk containing plans in a format and medium specified by the Council showing the work to be accepted for use by the City have been submitted to the Kaufman County Public Works. Release of the construction bond shall be made in the form of an order from the City Council;
- g) In the event any or all of the streets, roads, drainage and drainage structures, as constructed by the Developer fail to meet the requirements of the foregoing specifications, and the said Owner fails or refuses to correct the defects called to his attention in writing by the City Council, or its Designated Agent, the unfinished improvements shall be completed at the cost and expense of obligee as provided.

8.1.2. All construction bonds shall be conditioned on and subject to the following: The construction bond shall be presented to the City Council in conjunction with the Final Plat.

8.2 Maintenance Bonds

8.2.1. To insure roads, streets, street signs, underground utilities, required drainage structures and all other construction are maintained to the satisfaction of the City Council, a maintenance bond executed by a surety company authorized to do business in this state, and made payable to the City of Post Oak Bend, Texas, shall be substituted for the construction bond at the time of release of said construction bond.

8.2.2. The maintenance bond amount shall be equal to 50 percent of the estimated cost of roads, streets, street signs, underground utilities, required drainage structures and all other construction.

8.2.3. The conditions of the maintenance bond shall be that the Developer shall guarantee to maintain and keep in a good state of repair, to the satisfaction of City Council, all of the streets, roads, drainage structures and drainage ditches which have been constructed. Said bond shall be for a period of two years from completion of construction.

8.2.4. Periodic inspection of roads, streets, street signs, underground utilities, required drainage structures and all other construction, for which maintenance security is held, will be made by the City Engineer during the period of liability covered by the maintenance bond.

- a) In the event any or all of the roads, streets, street signs, underground utilities, required drainage structures and all other construction are not being maintained in a good state of repair, the Developer will be so advised in writing; and
- b) If after a reasonable time he fails or refuses to repair said items they shall be maintained at the cost and expense of the obligee as in said orders provided.

8.2.5. The release of any bond shall be by order of the City Council. To obtain a release, the Developer who posted the bond in question shall present a written request to release said bond. The request shall contain:

- a) A statement by the Engineer responsible for the design of said work stating that he has made an inspection of such improvements and recommends their acceptance by the City;
- b) The written request of bond release shall be received by the City Council at least 21 days prior to the regularly scheduled meeting of City Council at which the Order of Release is sought.

8.3 Irrevocable Letter of Credit (In Lieu of Bond)

8.3.1. An Irrevocable Letter of Credit may be submitted in lieu of bonds, for the purpose of insuring a Developer's promise to construct and maintain the streets, roads and drainage facilities in a Subdivision. Irrevocable Letters of Credit in lieu of Bonds are required under the same conditions as Construction and Maintenance Bonds.

8.3.2. Irrevocable Letters of Credit must be accompanied by a letter from a local lending institution listing the accumulative amount of all Irrevocable Letter of Credit issued to the City by that institution on behalf of the Developer and or his/her trade names. The accompanying letter must also list each current Irrevocable Letter of Credit in force in City of Post Oak Bend, the name of the project and each amount.

8.4 Other Security

8.4.1. Any type of security for Construction and Maintenance other than Bonds and Irrevocable Letter of Credit shall be subject to the discretion of the City Council.

ARTICLE NINE: INFRASTRUCTURE REGULATIONS FOR MANUFACTURED HOME RENTAL COMMUNITIES

9.1 Definitions

9.1.1. Manufactured Home Rental Community means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or

lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residence.

9.1.2. Business Day means a day other than a Saturday, Sunday, or holiday recognized by this state, and includes only those days, which the City of Post Oak Bend is open for business.

9.2 Infrastructure Standards

9.2.1. After a public hearing and after notice is published in a newspaper of general circulation in the City, by order adopted and entered in the minutes of the City Council meeting, may establish minimum infrastructure standards for manufactured home rental communities located outside the limits of a municipality. The minimum standards may include only:

- a) Reasonable specifications to provide adequate drainage in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100 year flood plain;
- b) Reasonable specifications for providing an adequate public or community water supply, including specifying the location of supply lines, in accordance with Subchapter C, Chapter 341, Health and Safety Code;
- c) Reasonable requirements for providing access to sanitary sewer lines, including specifying the location of sanitary sewer lines, or providing adequate on-site sewage facilities in accordance with Chapter 366, Health and Safety Code;
- d) A requirement for the preparation of a survey identifying the proposed manufactured home rental community boundaries and any significant features of the community, including the proposed location of manufactured home rental community spaces, utility easements, and dedications of rights-of-way;
- e) Reasonable specifications for streets or roads in the manufactured rental home community to provide ingress and egress access for fire and emergency vehicles;
- f) The City Council may not adopt minimum infrastructure standards that are more stringent than requirements adopted by the City Council for Subdivisions. The City Council may only adopt minimum infrastructure standards for ingress and egress access by fire and emergency vehicles that are reasonable necessary;
- g) If the City Council adopts minimum infrastructure standards for manufactured rental communities, the owner of land located outside the

limits of a municipality who intends to use the land for a manufactured home rental community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards adopted by the City Council;

- h) Not later than the 60th day after the date the owner of a proposed manufactured home rental community submits an infrastructure development plan for approval, the City Engineer or another person designated by the City Council shall approve or reject the plan in writing. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan;
- i) Construction of a proposed manufactured home rental community may not begin before the date the City Engineer or another person designated by the City approves the infrastructure development plan. The City Engineer or his designee will inspect the infrastructure during or on completion of its construction. The final inspection must be completed not later than the second business day after the date the City Council or the person designated by the City Council receives a written confirmation from the owner that construction of the infrastructure is complete;
- j) If the inspector determines that the infrastructure complies with the infrastructure development plan, the City Council shall issue a certificate of compliance not later than the fifth business day after the date the final inspection is completed; and
- k) A utility may not provide utility services, including water, sewer, gas and electric services, to a manufactured home rental community subject to an infrastructure development plan or to a manufactured home in the community unless the owner provides the utility with a copy of the certificate of compliance. The subsection applies to:
 - A municipality that provides utility services;
 - A municipally owned or municipally operated utility that provides utility services;
 - A public utility that provides utility services;
 - A nonprofit water supply or sewer service corporation organized and operating under;
 - Chapter 67, Water Code, that provides utility services;
 - A City that provides utility services; and

- A special district or authority created by state law that provides utility services.

9.2.2. Manufactured Home Rental Communities (MHRC): The purpose of this subsection is to achieve orderly development of a MHRC, to promote and develop the use of land to assure the best possible community environment, and to protect and promote health, safety, and general welfare of the residents of City of Post Oak Bend.

9.2.4. All Manufactured Housing Rental Communities will follow the same process for a regular Subdivision for Preliminary and Final Plat presentations.

9.2.5. MHRC: General Requirements:

- a) There will be no direct ingress or egress to the City or State right-of-way or roads from the MHRC except by way of roads, an interior roadway, or roadways intersecting the City or State roads;
- b) These entrances shall be constructed in such a way as to provide a sufficient turning radius for the delivery or removal of manufactured housing units. Entrances and roads shall have right-of-ways of at least 75 feet, unless more is needed for drainage purposes. Minimum pavement width shall be 44 feet, with six inches of concrete top surface as per City of Post Oak Bend specifications;
- c) The sub-grade shall be lime stabilized with 8% lime to a depth of six inches, 48 feet in width, unless equivalent is specified by Engineer;
- d) Due to safety concerns, no cul-de-sac shall be allowed in a manufactured housing "rental" Subdivision;
- e) All lots shall have not less than 60 feet frontage on each lot;
- f) All regular parking for each site shall be off street;
- g) All utilities will be underground, using NCTCOG Standard Specifications for Public Works Construction;
- h) Utility easements of not less than 15 feet shall be provided on the front and rear lot lines. A drainage/utility easement of five feet on each side lot line;
- i) All culverts shall have concrete head walls;
- j) All roads in the MHRC shall be built to City standards and shall be subject to the same test and requirements as currently listed the Street Specifications of these Rules;

- k) MHRC with a density of more than one house per 1.0 acre shall have a TCEQ approved community wastewater treatment system (package plant). All sewer lines, yard lines, collector lines, and/or trunk lines shall be inspected by the City Engineer or Designated Agent during construction and prior to the covering of the lines. The construction superintendent shall notify and inform the City's Designated Agent 72 hours prior to the beginning of construction of the time, date, and location of the commencement of construction;
- l) MHRC's shall meet all current standards on waterline and fire hydrant installation as listed in the current Subdivision Ordinance of the City;
- m) An area for cluster mailboxes (per U.S. Postal specifications) shall be provided with adequate off street parking for the pick up of mail deliveries and proper egress and ingress onto the road;
- n) Front building set back lines shall be 25 feet from the right-of-way and 15 feet on each side lot line;
- o) All manufactured housing units shall have the TCEQ approved anti-siphon devices on all outside water spigots;
- p) All roads/streets inside the MHRC will remain private roads/streets.

9.2.6. Construction plans shall be provided to the City Engineer or Designated Agent at the time the Final Plat is submitted. A construction plans shall include, at a minimum, two sets of the following:

- a) Street plans;
- b) Sewer system plans;
- c) Water system plans;
- d) Drainage system plans.

9.2.7. Two sets of "as built" construction plans shall be submitted to the City's Designated Agent within 30 business days after construction has been completed.

9.2.8. The City shall withhold all permits for MHRC until the MHRC Plan has been approved by the manner prescribed by these Regulations and is found to be in compliance with these Regulations. The requirements for a MHRC Plan are as follows:

- a) Each applicant seeking approval of a MHRC shall submit to the

City's Designated Agent seven black line copies of a MHRC Plan as outlined paragraph (d) below;

- b) Upon receipt of a MHRC plan, the City's Designated Agent shall make copies available to City Council. The City Council shall submit their comments and recommendations for approval or disapproval in writing back to the City's Designated Agent within 30 days of receipt of the plan;
- c) When plans for the MHRC are completed in accordance with this Ordinance and City Council's comments, the City of Post Oak Bend Engineer or Designated Agent shall submit the plan with his recommendation and comments to the City for consideration. The City Council will approve the plan as submitted, amend, and approve the plan as amended, or disapprove the plan;
- d) The MHRC plan shall be drawn to scale not to exceed one inch = 100 feet. When more than one sheet is necessary to accommodate the entire area to be developed, an index sheet showing the entire park at the appropriate scale shall be attached to the plan;
- e) The plan to be submitted for a MHRC shall include the same data outlined by these Regulations and shall include proposed 9-1-1 addresses;
- f) All roads and drainage will be constructed to City standards and inspected. The road will remain private road inside the community.

ARTICLE TEN: ON-SITE WASTEWATER RULES

10.1 On-Site Sewage Facilities

10.1.1. The County of Kaufman is delegated responsibility for permitting on-site sewage systems up to 5,000 gallons per day by the Texas Commission on Environmental Quality. The current Court Order governing On-Site Sewage Facilities is hereby incorporated into and considered a part of this Ordinance by reference. Subdivisions shall comply with the relevant provisions in order to ensure that lots that might be used for human habitation are adequately sized and placed to allow a safe and efficient wastewater disposal system.

10.1.2. On-site sewage facilities that are to be installed in a Subdivision will be installed in accordance with Title 30, Texas Administrative Code, Chapter 285, On-Site Sewage Facilities in addition to the Order Adopting Rules of Kaufman County, Texas for On-Site Sewage Facilities.

10.1.3. The purpose of these Rules is to abate or prevent pollution or injury to the public health in City of Post Oak Bend.

10.1.4. The Kaufman County Public Works Department is designated by the authorized agent to administer the on-site sewage facility permitting and enforcement procedures for City of Post Oak Bend.

10.2 Definitions

10.2.1. Authorized Agent - A local governmental entity that has been delegated the authority by the executive director to implement and enforce the rules adopted under Texas Health and Safety Code, Chapter 366.

10.2.2. Designated Representative - An individual who holds a valid license issued by the executive director according to Chapter 30 of this title, and who is designated by the authorized agent to review permit applications, site evaluations, or planning materials, or conduct inspections on OSSF's.

10.2.3. On-site sewage disposal system - One or more systems that:

- a) do not treat or dispose of more than 5,000 gallons of sewage each day; and
- b) are used only for disposal of sewage produced on a site where any part of the system is located.

10.2.4. On-site sewage facility (OSSF) - An on-site sewage disposal system.

10.2.5. Nuisance

- a) sewage, human excreta, or other organic waste discharged or exposed in a manner that makes it a potential instrument or medium in the transmission of disease to or between persons;
- b) an overflow from a septic tank or similar device, including surface discharge from or groundwater contamination by a component of an OSSF; or
- c) a blatant discharge from an OSSF.

10.2.6. Permit - An authorization issued by the permitting authority, to construct or operate an OSSF. The permit consists of the authorization to construct and the planning materials to the permitting authority on behalf of the owner.

10.2.7. Permitting Authority - The executive director or authorized agent.

10.2.8. Professional Engineer - An individual licensed by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas.

10.2.9. Professional Sanitarian - An individual registered by the Texas Department of Health to carry out educational and inspection duties in the field of sanitation in the State of Texas.

10.3 On-Site Sewage Disposal City Council Order

10.3.1. Authority: City of Post Oak Bend clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, City of Post Oak Bend does adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code.

10.3.2. Jurisdiction: The Rules shall apply to all the area lying in City of Post Oak Bend except for the area regulated under an existing Rule.

10.3.3. On-Site Sewage Facility Rules Adopted: The Rules ("Design Criteria For On-Site Sewage Facilities", Texas Administrative Code 30 TAC 285.1 – 285.91), attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage systems are hereby adopted, and all officials and employees of City having duties under said Rules and authorized to perform such duties as are required of them under the Rules.

10.3.4. Incorporation by Reference: The Design Criteria (30 TAC, 285.1 – 285.91) and all future amendments and revisions thereto are incorporated by reference and are thus made apart of these Rules.

10.3.5. Amendments: If the City wishes to adopt more stringent rules for On-Site Sewage Facility, the City understands that the more stringent conflicting local rule shall take precedence over the corresponding TCEQ requirements if local rules provide greater public health and safety protection. Listed below are the more stringent rules adopted by City:

- a) Persons in the City, regardless of the amount of land owned, on which a private on-site sewage facility is to be installed must obtain a permit from the licensing authority prior to commencing the construction or installation of the on-site sewage facility. Persons will be required a soil evaluation test. All private on-site sewage facilities will be constructed or installed according to 30 TAC 285 Rules;
- b) The construction or installation of an on-site sewage facility on a lot or tract that is smaller than one (1) acre shall not be allowed. However, on such smaller lots or tracts, recorded with the City in its official plat recorded prior to January 1, 1988, an on-site sewage facility may be permitted to be constructed and licensed to operate on a lot smaller than one (1) acre if it is demonstrated by a thorough investigation of a Registered Professional Engineer or Registered Professional Sanitarian (either having demonstrated expertise in onsite sewage facility design) that an on-site sewage facility on one of these lots can be operated without

causing a threat or harm to an existing or proposed water supply system or to the public health, or creating the threat of pollution or nuisance conditions;

- c) A variance may be granted for individual tracts of land smaller than one (1) acre recorded after January 1, 1988, if they are not part of a Subdivision. The request for the variance must be thoroughly reviewed by the County Public Works and the City Council. The on-site sewage facility for a lot less than one (1) acre must be designed by a Registered Professional Engineer or Registered Professional Sanitarian that has expertise in on-site sewage facility design. It must be demonstrated that the system can be operated without causing a threat or harm to existing or proposed water supply system or to the public health, or creating the threat of pollution or nuisance conditions. All State and City construction Standards must be followed. A variance will not be granted for a Subdivision that has been platted and recorded since March 23, 1990. No less than one (1) acre per residence for an on-site sewage facility will be allowed in any Subdivision platted after March 23, 1990. Under no circumstances will a variance be granted if the total land is less than 1/2 acre per residence;
- d) All houses, residences, business parks, structures, establishments, etc., that want to tie into the same on-site sewage facility must be located on the same legal tract of land. The legal owner of the land will be responsible for the proper function of the system. All houses, residences, business parks, structures, establishments, etc., must have one (1) acre of land per dwelling. If there is less than one acre of land per dwelling a variance may be considered. Under no circumstance will a variance be granted if there is less than 1/2 acre of land per dwelling. The system must be designed by a Registered Professional Engineer or Registered Professional Sanitarian that has expertise in on-site sewage facility design. The wastewater flow from the residences must not exceed the designed flow of the system. All State and City construction rules must be followed. If at any time the legal tract of land that the dwellings are located on is divided, a separate system will have to be installed for the property that does not have the system located within its boundary. At that time, all parts of each individual system must be maintained on each separate legal tract of land. Both systems will need to be functioning in accordance with State and City rules;
- e) Upon construction of an on-site sewage facility, if the on-site sewage facility fails the inspection, a re-inspection fee set by the Authorized Agent shall be assessed to the installer of record each time a re-inspection is required;

- f) All on-site sewage facility designs must be performed by a Registered Sanitarian or a Registered Professional Engineer that have expertise in on-site sewage facility design.

10.3.6. Duties and Powers: The On-Site Sewage Inspector for the County is herewith declared the designated representative for the enforcement of these Rules within its jurisdictional area. The appointed individual (s) must be approved and certified by the TCEQ before assuming the duties and responsibilities of the Designated Representative.

10.3.7. Collection of Fees: All fees collected for permits and/or inspections shall be made payable to City of Post Oak Bend.

10.3.8. Appeals: Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners' Court of Kaufman County, Texas.

10.3.9. Penalties: This order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, including, but not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapter 26 of the Texas Water Code and 30 TAC Chapter 285, as amended.

10.3.10. Severability: It is hereby declared to be the intention of the City Council of City of Post Oak Bend, Texas that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of such unconstitutional phrases, clause, sentence, paragraph, or section.

ARTICLE ELEVEN: RESERVED FOR REVISIONS & FUTURE USE

ARTICLE TWELVE: ADMINISTRATION

12.1 Designated Agent

12.1.1. The City Council may appoint a Designated Agent to serve as administrator of this Ordinance.

12.2 Revision of Plat

12.2.1. The owner of an existing lot or lots in a platted Subdivision may submit an application to revise the portion of the existing plat affecting such lot(s), unless prohibited by restrictive covenants or plat notes filed pursuant to these Regulations, by submitting the following to the City.

- a) Six (6) copies of the proposed revised plat, conforming in all respects to the requirements of this Ordinance; or, if submitted by a private homeowner who is not a Developer in the Subdivision, other materials acceptable to the City Council clearly setting forth the desired amendment;
- b) A statement giving the reason(s) for the proposed revision; and
- c) A filing fee as specified, and which may be amended from time to time by the City;
- d) Public Notice: After the date, the City posts the replat for consideration by the City Council, but before the application is considered by the City Council, the applicant shall file proof that the owner, at its expense, has delivered or published all notices required by Sections 212.014 and 212.015 of the Texas Local Government Code, including;
 - a notarized publisher's affidavit demonstrating publication of the application in a newspaper of general circulation in the area affected by the replat, including a statement of the time and place at which the City Council will meet to consider the application and hear protests, if any. As required by the Texas Local Government Code, the notice shall be published prior to the 15th day prior to date of the City Council hearing; and
 - Delivery of notice of the application to all owners within 200 feet of the property and within the original Subdivision by mail, postage prepaid at the owner's addresses in the subdivided tract;

12.2.2. Criteria for Approval:

- a) The City Council may approve an application to revise a Subdivision upon finding that:
 - The revision will not interfere with the established rights of any owner of a part of the subdivided land, or each owner whose rights may be interfered with has agreed to the revision; and
 - The plat as revised conforms to the requirements of the Ordinance.

The owner may make the revision by filing for record with the City Clerk a revised plat or part that indicates the changes made to the original plat.

12.3 Appeals and Variance Procedure

12.3.1. A Developer aggrieved by an action or decision of the Designated Agent pertaining to this Ordinance may, within 30 days of the date of notice of the action or

decision, appeal the same to the City Council. These appeals are not exclusive, but are cumulative of any other remedies at law or in equity.

12.3.2. Variance Procedures. In specific cases where strict, literal interpretation of any section would work an undue economic hardship, variances may be sought, provided the overall performance standards are met. It should not be inferred, however, that specific requirements may be ignored.

- a) Developer provides written appeal for variance to Designated Agent in a timely manner;
- b) Designated Agent presents a copy of the variance appeal along with his written comments to each City Council member and to the City Attorney in a timely manner;
- c) The City Secretary will place the item on the Council agenda for appropriate action.

12.4 Amendments

12.4.1. The City Council may, from time to time, adopt and amend this Ordinance and the rules, procedures and policies therewith associated. This Ordinance may be amended by the City Council at any time.

12.5 Validity and Repeal

12.5.1. If any part, section, paragraph, clause, provision or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction or the legislature of this State or the United States, such holding will not affect any other part, section, paragraph, clause, provision or portion of this Order. All orders or parts of orders of City of Post Oak Bend in conflict with this Order are hereby repealed to the limited extent of such conflict.

12.6 Reserved

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APPENDIX A - FLOOD DAMAGE PREVENTION ORDER

ARTICLE I STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Texas has in Subchapter 1, Section 16.315 of the Texas Water Code delegated the responsibility of local government units to adopt Regulations designed to minimize flood losses. Therefore, the City Council of Post Oak Bend, Texas, does ordain as follows:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of City of Post Oak Bend are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to flood and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this order to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this order uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development, which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

ARTICLE 2 DEFINITIONS

Unless specifically defined below, words or phrases used in this order shall be interpreted to give them the meaning they have in common usage and to give this order its most reasonable application.

ALLUVIAL FAN FLOODING – means flooding occurring on the surface of an alluvial fan or similar landform, which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX – means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPURTENANT STRUCTURE – means a structure, which is on the same parcel of property as the principle structure to be insured, and the use of which is incidental to the use of the principle structure.

AREA OF FUTURE CONDITIONS FLOOD HAZARD – means the land area that would be inundated by the one percent annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING – means a designated AO, AH, AR/AO,

AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet

where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD – is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

BASE FLOOD – means the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT – means any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FEATURE – means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT – means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION – means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – means a manufactured home park or Subdivision for which the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management Regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING – means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.

FLOOD INSURANCE RATE MAP (FIRM) – means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – see *Flood Elevation Study*.

FLOODPLAIN OR FLOOD-PRONE AREA – means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management Regulations.

FLOODPLAIN MANAGEMENT REGULATIONS – means zoning ordinances, Subdivision Regulations, building codes, health Regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local Ordinances, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM – means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams,

reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING – means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – see *Regulatory Floodway*.

FUNCTIONALLY DEPENDENT USE – means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE – means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE – means and structure that is:

- (1) Listed individually in the National Register of Historic places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE – means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protections from temporary flooding.

LEVEE SYSTEM – means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access or storage in an area other than an basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program Regulations.

MANUFACTURED HOME – means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

MANUFACTURED HOME PARK OR SUBDIVISION – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION – means, for the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION – means a manufactured home park or Subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management Regulations adopted by a community.

RECREATIONAL VEHICLE – means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently tow able by a light duty truck; and

(4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY – means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

RIVERINE – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA – see *Area of Special Flood Hazard*.

START OF CONSTRUCTION – (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means to date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footing, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is primarily above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE – means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “start of construction” of the improvement. This term includes structures, which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the

local code enforcement official and which are the minimum necessary to assure safe living conditions or

(2) Any alteration of a “historic structure”, provided that the alteration would not preclude the structure’s continued designation as a “historic structure.”

VARIANCE – means a grant of relief y a community from the terms of a floodplain management regulation.

VIOLATION – means the failure of a structure or other development to be fully compliant with the community’s floodplain management Regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION – means the height, in relation to the National Geodetic Vertical Datum (NGVD) or 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE 3 GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDER APPLIES

This order shall apply to all areas of special flood hazard within the jurisdiction of City of Post Oak Bend.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD

HAZARD The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled “The Flood Insurance Study (FIS) for City of Post Oak Bend,” dated September 6, 1995, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this order.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this order.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this order and other applicable Regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This order is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this order and another order, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this order, all provisions shall be;

- (1) considered as minimum requirements;
- (2) liberally construed in favor of the governing body; and
- (3) deemed neither to limit nor repeal and other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this order is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This order does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This order shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this order or any administrative decision lawfully made hereunder.

ARTICLE 4 ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The 9-1-1 Coordinator is hereby appointed the Floodplain Administrator to administer and implement the provisions of the order and other appropriate sections of 44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this order.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this order.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Texas Commission on Environmental Quality, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.

(9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may approve certain development in Zones A1-30, AE, AH on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12.

SECTION C. PERMIT PROCEDURES

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in

relation to areas of special flood hazard. Additionally, the following information is required:

- (a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - (c) A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Article 5, Section B(2);
 - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - (e) Maintain a record of all such information in accordance with Article 4, Section(B)(1);
- (2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this order and the following relevant factors:

- (a) The danger to life and property due to flooding or erosion damage;
- (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (c) The danger that materials may be swept onto other lands to the injury of others;
- (d) The compatibility of the proposed use with existing and anticipated development;
- (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

- (h) The necessity to the facility of a waterfront location, where applicable;
- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (j) The relationship of the proposed use to the comprehensive plan for that area.

(3) Pursuant to Sections 16.311 et seq. of the Texas Water Code, City of Post Oak Bend will collect reasonable fees, as set by the City Council, to cover the cost of administering the local floodplain management program.

SECTION D. VARIANCE PROCEDURES

(1) The City of Post Oak Bend City Council shall hear and render judgment on requests for variances from the requirements of this order.

(2) The City of Post Oak Bend City Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this order.

(3) Any person or persons aggrieved by the decision of the City of Post Oak Bend City Council may appeal such decision in the courts of competent jurisdiction.

(4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this order.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the ½ acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this order, the City of Post Oak Bend City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this order (Article 1, Section C).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(10) Prerequisites for granting variances:

- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (b) Variances shall only be issued upon:
 - (i) showing a good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

SECTION E. ENFORCEMENT AND PENALTIES FOR NONCOMPLIANCE

(1) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this order and other applicable Regulations.

(2) Violation of the provisions of this order by failure to comply with any of its requirements shall be punishable by the following:

- (a) Criminal Penalty: Pursuant to Sections 16.311 et seq. of the Texas Water Code, any violation of this order is a Class C misdemeanor. Each violation of this order and each day of a continuing violation is a separate offense.
- (b) Civil Penalty: Pursuant to Sections 16.311 et seq. of the Texas Water Code, any person who violates this order is subject to a civil penalty of not more than \$100 for each act of violation for each day of violation.
- (c) Civil Suit for Injunction: Pursuant to Sections 16.311 et seq. of the Texas Water Code, if it appears that a person has violated, is violating, or is threatening to violate this order, City of Post Oak Bend may institute a civil suit in the appropriate court for:
 - (i) Injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions;
 - (ii) The assessment and recovery of the civil penalty provided by Article 4, Section E (2)(a); or (iii) Both the injunctive relief and the civil penalty.
- (3) Nothing contained herein shall prevent City of Post Oak Bend from taking other lawful action as is necessary to prevent or remedy any violation.
- (4) Upon an initial discovery that a structure or land is in violation of this order, the Floodplain Administrator and/or his designee shall issue a 30-day written notice to the owner, lessee, occupant, agent and/or person in charge of the premises (collectively, the "violation"). Within 30 days from the initial notice, the violator must either:
 - (a) Appeal the violation within the first 10 days by submitting appropriate data in writing to the Floodplain Administrator that proves that either the structure is in compliance with this order or is not actually located within the floodplain;
 - (b) Restore the land to its prior condition and/or remove the illegal structure from the floodplain; or
 - (c) Attempt to bring the violation into compliance with this order by submitting a complete application for a Floodplain Development Permit as described in Article 4, Section C, along with any required fees.
- (5) If after 30 days from an initial written notice given under Article 4, Section E (4), the violation still exists, no appeal has been made, and the violator has not applied for a Floodplain Development Permit:

- (a) A second notice letter shall be issued to the violator warning the violator to restore the land or remove the illegal structure within 30 days.
 - (b) If a violator has not complied with the second notice after 30 days, the Floodplain Administrator shall inform the City Attorney who will seek an injunction against the violator.
- (6) If an appeal under Article 4, Section E (4)(a) is made to and subsequently denied by the Floodplain Administrator:
 - (a) A second notice letter shall be issued to the violator including notice to restore the land or remove the illegal structure from the floodplain within 60 days.
 - (b) If the violator has not complied with the second notice after 60 days, the Floodplain Administrator shall inform the City Attorney who will seek an injunction against the violator.
- (7) If an application for a Floodplain Development Permit is submitted to, but not approved by, the Floodplain Administrator, the violator may request a variance from this order from the City Council under Article 4, Section D. This request must be submitted in writing to the City Council within ten days of written notification from the Floodplain Administrator that the Floodplain Development Permit has been denied.
- (8) If an application for a Floodplain Development Permit is submitted to, but not approved by, the Floodplain Administrator:
 - (a) A second notice letter shall be issued to the violator including notice to restore the land or remove the illegal structure from the floodplain within 60 days.
 - (b) If the violator has not complied with the second notice after 60 days, the Floodplain Administrator shall inform the City Attorney who will seek an injunction against the violator.
- (9) If a variance is requested but not granted by the City Council:
 - (a) A second notice letter shall be issued to the violator including notice to restore the land or remove the illegal structure from the floodplain within 60 days.
 - (b) If the violator has not complied with the second notice after 60 days, the Floodplain Administrator shall inform the City Attorney who will seek an injunction against the violator.

(10) If a Floodplain Development Permit is granted, but the violation is not brought into compliance before the permit expires:

- (a) A written notice shall be issued to the violator including notice to either restore the land, remove the illegal structure from the floodplain or to submit a satisfactorily complete application for another Floodplain Development Permit within 30 days.
- (b) If, after the aforementioned 30 days, the violator has not either; restored the land, removed the illegal structure from the floodplain, or submitted a satisfactorily complete application for another Floodplain Development Permit, the Floodplain Administrator shall inform the District Attorney who will seek an injunction against the violator.

ARTICLE 5 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Article 3, Section B; Article 4, Section B (8); or Article 5, Section C (3), the following provisions are required:

(1) Residential Construction – new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

(2) Nonresidential Construction – new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.

(3) Enclosures – new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (a) A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all openings shall be no higher than one foot above grade.
- (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Manufactured Homes –

- (a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices, which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - (b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
 - (i) outside of a manufactured home park or Subdivision,
 - (ii) in a new manufactured home park or Subdivision,
 - (iii) in an expansion to an existing manufactured home park or Subdivision, or
 - (iv) in an existing manufactured home park or Subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or Subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either,
 - (i) the lowest floor of the manufactured home is at or above the base flood elevation, or
 - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) Recreational Vehicles – Require that recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM either,
- (a) be on the site fewer than 180 consecutive days, or

- (b) be fully licensed and ready for highway use, or
- (c) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for “manufactured homes” in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

- (1) All Subdivision proposals including the placement of manufactured home parks and Subdivisions shall be consistent with Article 1, Sections B, C, and D of this order.
- (2) All proposals for the development of Subdivisions including the placement of manufactured home parks and Subdivisions shall meet Floodplain Development permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this order.
- (3) Base flood elevation data shall be generated for Subdivision proposals and other proposed development including the placement of manufactured home parks and Subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this order.
- (4) All Subdivision proposals including the placement of manufactured home parks and Subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All Subdivision proposals including the placement of manufactured home parks and Subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply;

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

- (2) All new construction and substantial improvements of non-residential structures;
 - (a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of the Section, as proposed in Article 4, Section C are satisfied.
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION E. FLOODWAYS

Floodways – located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential, the following provisions shall apply;

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

APPENDIX B 2006 SUBDIVISION FEE SCHEDULE

Preliminary Plat Fee:

Final Plat Fee:

Final Plat Fee (no road construction):

If any section, clause, sentence, or phrase of this Order is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Order.

CERTIFICATION

It is hereby found and declared by City of Post Oak Bend that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in a substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this order become effective immediately.

Therefore, an emergency is hereby declared to exist, and this order, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.