

ORDINANCE NO. 22

AN ORDINANCE OF THE CITY OF POST OAK BEND, TEXAS, ADOPTING A COMPREHENSIVE ZONING ORDINANCE REGULATING: THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND; THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES; THE SIZE OF YARDS AND OTHER OPEN SPACES; AND, THE DENSITY OF POPULATION; DIVIDING THE MUNICIPALITY INTO DISTRICTS AND ADOPTING AN OFFICIAL ZONING MAP; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH VIOLATION OF ITS PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Post Oak Bend, in compliance with the laws of the State of Texas with reference to amendment of the zoning ordinance, have given the requisite notices and have held due public hearings, and the City Council is of the opinion and finds that the Comprehensive Zoning Ordinance and Map should be amended; **NOW, THEREFORE**,

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

Section 1. This Ordinance repeals and supersedes the original City of Post Oak Bend Zoning Ordinance, Ordinance number 7803, dated the 4th day of March 1980, and all other ordinances in conflict herewith. This original Ordinance is on file at Kaufman County Records Section in Volume 0974, page 742.

Section 2. The City Council of the City of Post Oak Bend, Texas, deems it necessary, in order to lessen congestion on streets, to secure safety from fire, panic, and other dangers; to promote health and the general welfare, to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public requirements, and to conserve the value of property and encourage the appropriate use of land throughout the City, all in accordance with a comprehensive plan, to adopt a comprehensive zoning ordinance and map.

Section 3. This Ordinance shall be known and may be cited as the "City of Post Oak Bend Zoning Ordinance".

Section 4. The zoning regulations and districts as herein established have been made in accordance with a comprehensive plan for the City of Post Oak Bend, Texas.

Section 5. In interpreting and applying the provisions of this Ordinance, the requirements hereof shall be held to be the minimum requirements for the promotion of the public, safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this Ordinance shall govern.

Section 6. Definitions

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure"; the word "shall" is mandatory and not directive; the word "lot" includes the word "plot"; the term "used for" includes the meaning "designed for" or "intended for". Said words and terms are as follows:

1. Accessory Use or Building. An accessory use or building is a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.
2. Alley. A public way that affords only a secondary means of access to property abutting thereon.
3. Building. Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind.
4. Building, Height of. The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
5. Building Line. A line parallel or approximately parallel to the street line and beyond which buildings may not be erected.
6. City. The City of Post Oak Bend, Texas.
7. Clinic. An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians practicing medicine together.
8. Club. A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.
9. Dwelling. Any building or portion thereof that is designed for or used for residential purposes.
10. Dwelling, Mobile Home. A structure which was constructed before June 15, 1976 transportable in one or more sections which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on-site, is three hundred and twenty (320) or more square feet and which

is built on a permanent chassis and designed to be used as a dwelling with, or without, a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems.

11. Dwelling, HUD-Code Manufactured Home. A structure constructed on or after June 15, 1976 according to the rules of the United States Department of Housing and Urban Development which is transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on-site, is three hundred and twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with, or without, a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems.
12. Dwelling, Single-Family. A detached principal building other than a mobile home designed for, or occupied as, a dwelling exclusively by one family as an independent family unit.
13. Easement. Authorization by a property owner for the use by the public, a corporation or persons of any designated part of his property for specific purposes.
14. Family. One or more individuals living together as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.
15. Frontage, Block. All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
16. Lot. A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this Ordinance, and having its principal frontage upon a street or upon an officially approved place.
17. Lot, Depth of. The mean horizontal distance between the front and rear lot lines.
18. Modular Home. Any permanent, single family dwelling unit which has been prefabricated or factory constructed as a single unit or in sections or modules, and assembled at the factory or construction site and moved to a permanent location as a unit or in sections or modules, as a permanent single family dwelling unit placed on a permanent foundation at such site and connected with all utility services.
19. Non-Conforming Use, Building or Yard. A use, building, or yard, existing legally at the time of passage of this Ordinance, which does not, by reason of design or use, conform to the regulations of the district in which it is situated.
20. Parking Space, Off-Street. An area of not less than 180 square feet, measuring nine feet (9') by twenty feet (20'), not on a public street or alley, surfaced with an all weather surface, enclosed or unenclosed. A public street shall not be classified as off-street parking in computing the parking requirements for any use, nor shall head-in parking adjacent to a public street and dependent upon such street for maneuvering space.
21. Place. An open, unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.
22. Recreational Vehicle. A vehicular portable structure built on a chassis, designed to be used as a temporary living facility for travel and recreational purposes.

23. Servants' Quarters. An accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.
24. Story. That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.
25. Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four feet (4') above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor immediately below it, shall be deemed a full story.
26. Street. A public or private thoroughfare that affords the principal means of access to abutting property.
27. Street Line. A dividing line between a lot, tract or parcel of land and a contiguous street.
28. Structure. Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including but not limited to, buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.
29. Residential Swimming Pools. In-ground swimming pools and aboveground swimming pools must be located in the back yard and enclosed by a fence.
30. Yard. An open space at grade between a building and the adjoining lot lines unoccupied and unobstructed by any portion or a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.
31. Yard, Front. A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
32. Yard, Rear. A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.
33. Yard, Side. A yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereof.

Section 7. Repeal of Conflicting Ordinances or Orders.

Ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance

full force and effect.

Section 8. Special Exceptions and Variances.

The City Council shall have the power to act as the Zoning Board of Adjustment for the City to hear and decide special exceptions to the terms of this Ordinance and to authorize such variances from the terms of this Ordinance as may be authorized under section 211.009 of the Local Government Code, and in accordance with the procedural requirements of that section.

Section 9. Establishment of Districts and Official Zoning Map.

In order to carry out the purposes and provisions of this Ordinance, the following districts are hereby established:

A. RSF Residential Single Family - Minimum One (1) Acre Net

This district is comprised of quiet low-density residential areas, plus open acreage where future residential development may occur.

B. COM Commercial. Privately owned businesses

C. MH Mobile Home Single Family - Minimum One (1) Acre Net

This district is comprised of an area approved for use of mobile homes or HUD Code Manufactured Homes as one-unit dwellings in accordance with a site plan approved by the City Council.

The location and boundaries of the districts herein established are shown on the Official Zoning Map, which is hereby incorporated into this Ordinance and attached by reference hereto as Exhibit "A" and made part hereof for all purposes. Said Official Zoning Map, together with all notations, references and other information shown thereon and all amendments thereto, shall be as much a part of this Ordinance as if fully set forth and described herein. Said Zoning Map, properly attested, is on file in the office of the City Secretary of Post Oak Bend, Texas

Section 10. Interpretation and Application.

The provisions of this Ordinance may be regarded as the minimum requirements for the promotion of public health, safety, comfort, convenience, prosperity, and general welfare. This Ordinance is not intended to interfere with, abrogate or annul any easements, covenants, and restrictions or agreements between parties provided. However, wherever this Ordinance imposes a greater restriction upon use of buildings or land, upon the location or height of buildings or structures or requires larger open spaces about the structures that are imposed or required by other laws, ordinances, or easements, covenants and restrictions or agreements between parties, the provisions of this Ordinance shall govern.

Section 11. Residential Single Family District.

The following regulations shall apply to the Single Family Residential District.

- A. Use Regulations. Within the Residential Single Family District, only the following uses and structures shall be permitted:
1. One-family dwellings.
 2. Churches, church schools and other places of worship.
 3. Colleges, universities, or other institutions of higher learning.
 4. Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
 5. Farms, nurseries or truck gardens, limited to the propagation and cultivation of plants.
 6. Parks, playgrounds, community buildings and other public recreational facilities, owned and or operated by the municipality or other public agency.
 7. Public buildings, including libraries, museums, police and fire stations.
 8. Real estate sales offices and model display homes are permitted during the development of residential single-family homes for a period not to exceed two (2) years.
 9. Public schools, elementary, middle schools and high schools.
 10. Private schools with curriculum equivalent to that of public schools.
 11. Temporary buildings for uses incidental to construction work on the premises; buildings shall be removed upon the completion or abandonment of construction work.
 12. Water supply reservoirs, pumping plants and water towers.
 13. Accessory buildings which are required in addition to the above structures and uses, and which are located on the same lot therewith, are permitted.
 - a. The term accessory shall include customary home occupations such as the office of a milliner, dressmaker, musician or artist, provided that such uses are located in the dwelling used by this person as his or her private residence, and provided that no assistant not a member of the family residing on the premises is employed and no window display or sign is used to advertise.
 - b. A billboard, signboard, or advertising sign shall not be permitted as an accessory use, except the placing of an un-illuminated "For Sale" or "For Rent" sign not more than eight (8) square feet in area may be permitted as an accessory use. Churches and other institutions may display signs showing names, activities and services therein provided. During construction of a building, one un-illuminated sign advertising contractors or architects on such premises shall be permitted, provided that such sign shall not be more than thirty-two (32) square feet in area and shall be set back of the established or customary building line. The sign shall be

removed immediately upon completion of the building.

- c. A private garage with or without storeroom and/or utility room shall be permitted as an accessory building, provided that such garage shall be located not less than...seventy-five (75) feet from the front lot line nor less than ten (10) feet from any side or rear lot line and in the case of corner lots not less than the distance required for residences from side streets. A garage or servants' quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building.

B. Area Regulations

1. Size of yards.

- a. Front yard. There shall be a front yard having a depth of not less than fifty feet (50'). If lots have double frontage, running through from one street to another, the required front yard depth shall be provided on both streets. No parking shall be allowed within the required front yard.
- b. Side yard. There shall be a side yard on each side of the lot having a width of not less than twenty feet (20').
- c. Rear yard. There shall be a rear yard having a depth of not less than twenty-five feet (25').

2. Size of Lot.

- a. Lot Area. No building shall be constructed on any lot of less than 1 acre net.
- b. Lot Width. The width of the lot shall not be less than one hundred twenty-five feet (125') at the front street building line, nor shall its average width be less than one hundred twenty-five feet.
- c. Where a lot having less area and/or width than herein required existed in separate ownership upon the effective date of this Ordinance, the above regulations shall not prohibit the erection of a single-family dwelling thereon.

C. Height Regulations.

No building shall exceed thirty-five feet (35') or two and one half (2-1/2) stories in height.

Section 12. Swimming Pools.

It is the purpose of these provisions to recognize an outdoor swimming pool as a potential attractive amenity and to promote the public safety and enjoyment of property rights by establishing rules and regulations governing the location and improvement of swimming pools.

- A. Permits and Approvals: No swimming pool shall be constructed or used until a Swimming Pool Building Permit and Certificate of Occupancy have been issued. No Building Permit and no final Certificate of Occupancy shall be issued unless the proposed sanitary facilities and water supply comply with applicable local and State Health Department regulations.
- B. Requirements: A swimming pool may be constructed and operated when:
1. The pool is not located in any required front or side yard abutting a street.
 2. All lighting of the pool is shielded or directed to face away from adjoining residence.
 3. During the construction phase, a permanent or temporary barrier meeting the requirements of number 4 (below) is required.
 4. An outdoor swimming pool shall be provided with a barrier that shall be installed, inspected and approved prior to plastering or filling with water. The barrier shall comply with the following:
 - a. The top of the barrier shall be at least forty-eight inches (48") above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two inches (2") measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance at the bottom of the barrier may be increased to four inches (4") when grade is a solid surface such as a concrete deck, or when the barrier is mounted on the top of the aboveground pool structure. When barriers have horizontal members spaced less than forty-five inches (45") apart, the horizontal members shall be placed on the poolside of the barrier. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.
 - b. Openings in the barrier shall not allow passage of a 1-3/4-inch-diameter sphere.

EXCEPTIONS:

- (1) When vertical spacing between such openings is forty-five inches (45") or more, the opening size may be increased such that the passage of a four inch-diameter sphere is not allowed.
 - (2) For fencing composed of vertical and horizontal members, the spacing between vertical members may be increased up to four inches (4") when the distance between the tops of horizontal members is forty-five inches (45") or more.
- c. Chain link fences used as the barrier shall not be less than 11 gage.

Section 13. Commercial (COM) District.

The following regulations shall apply to the Commercial District.

A. Use Regulations.

Within the Commercial District, to replace a currently owned commercial business will require approval of the City Council.

B. Area Regulations

1. Size of Yard

a. Front Yard. Same as District RSF

b. Side Yard. Same as District RSF

c. Rear Yard. Same as District RSF

C. Height regulations.

No building shall exceed forty-five feet (45') or three (3) stories in height, except that a building may be erected to a height of eighty feet (80') and eight (8) stories if set back from all required yard lines a distance of one foot (1') for each two feet (2') of additional height above forty-five feet (45').

Section 14. MH Mobile Home Single Family.

The following regulations shall apply to the Mobile Home Single Family District.

- A. For purposes of the Zoning Ordinance, "mobile home" means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. "HUD-code manufactured home" means a structure, constructed on or after June 15, 1976 according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. For purposes of the Zoning Ordinance, a Mobile Home District shall be one in which a mobile home or HUD-code manufactured home is permitted.
- B. It shall be unlawful and an offense for any person to park a mobile home or HUD-code manufactured home within the City limits of the City of Post Oak Bend for use as a residence, except in such areas as are designated a "Mobile Home District" under the Zoning Ordinance and as shown on the official Zoning Map.

- C. Each mobile home or HUD-code manufactured home unit shall be provided with a foundation skirt of an opaque, solid material extending from the lower edge of the unit to the ground.
- D. Sanitation and utility service shall be made available to each lot of a Mobile Home District in accordance with applicable Codes and Ordinances of the City and County.
- E. Require that all mobile homes and HUD-code manufactured homes shall be installed using methods and practices that 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.
- F. Off-street parking shall be provided at a ratio of two spaces for each lot in a Mobile Home District, and the location of such spaces shall be specifically shown on the approved site plan. Each Mobile Home District shall be designed so that each lot therein fronts upon a street equivalent to a standard residential street, as required in other residential areas.
- G. Signs shall be permitted in the Mobile Home District in the same manner as provided in any residential district and under the conditions set out in this Ordinance.
- H. Any existing mobile home or manufactured home which continues to be used for any purpose subsequent to the continuance provisions of this chapter, and which is abandoned and not maintained for a continuous period of 180 days, shall lose its continuance status and shall be subject to the variance provisions herein prescribed. Abandonment and lack of maintenance may be evidenced by, but not limited to, termination of utility service, failure to maintain occupancy, change of type of use, or by any other reasonable means.
- I. Any manufactured home which is located pursuant to the variance provisions of this chapter, and which is subsequently abandoned, shall be deemed to have permanently lost its location privilege and status, and the site on which the structure had been located shall hereafter be used only for purposes other than the location of a manufactured home.

Section 15. Septic Systems.

- A. Persons in the City of Post Oak Bend, 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 to obtain 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 net shall not be allowed. However, on such smaller lots or tracts recorded with the County 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 on-site 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. Upon construction on 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.
- D. 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.

Section 16. Height and Area Exceptions and Modifications.

A. Height.

- 1. The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyors, flag poles, electric display signs, and necessary mechanical appurtenances.
- 2. Public or semi-public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty (60) feet and churches and other places of worship may be erected to a height not exceeding seventy-five (75) feet when each of the required yards are each increased by one (1) foot for each foot of additional building height above the height regulation for the district in which the building is located.
- 3. No structure may be erected to a height in excess of that permitted by the regulations of such airfield zoning ordinance as may exist at the time and whose regulations apply to the area in which the structure is being erected

B. Front Yards.

- 1. Where twenty-five percent (25%) or more of the frontage upon the same side of a street between two intersecting streets is occupied or partially occupied by a building or buildings with front yards of less depth than required by this Ordinance, or where the configuration of the ground is such that conformity with the front yard provisions of this Ordinance would work a hardship, the City council may permit modifications of the front yard requirements.
- 2. In District RSF, where twenty-five percent (25%) or more of the frontage upon the same side of a street between intersecting streets is occupied or partially occupied by a building or buildings having front yards of greater depth than is required by this Ordinance, no other lot upon the same side of such street between such intersecting streets shall be occupied by a building with a front yard of less than the least depth of any such existing front yards, unless by permission of the City Council.

3. In a RSF district, no fence, structure, or planting higher than three and one-half feet (3 ½') above the established street grades shall be maintained within twenty feet (20') of any street intersection.
4. Open and unenclosed terraces or porches, eaves, and roof extensions may project into the required front yard for a distance not to exceed four feet (4'); provided that no supporting structure for such extensions may be located within the required front yard. An unenclosed canopy for a gasoline filling station may extend beyond the building line, but shall never be closer to the property line than twelve feet (12'). The building line of a gasoline filling station shall mean the actual wall of the building and shall not be interpreted as being the curb of a walk or driveway or as the front of a canopy or the columns supporting it.
5. Where an official line has been established for future widening or opening of a street upon which a lot abuts, the width of a front or side yard shall be measured from such official line to the nearest line of the building.

C. Side Yards.

1. On a corner lot, the width of the yard along the side street shall not be less than any required front yard on the same side of such street between intersecting streets, provided that the construction width of a lot of record shall not be reduced to less than fifty feet (50').
2. No accessory building shall project beyond a required yard line along any street.
3. Where a lot of record at the time of the effective date of this Ordinance is less than one hundred and twenty-five feet (125') in width the required side yard maybe reduced to provide a minimum construction width of fifty feet (50') provided that no side yard shall be less than ten feet (10').
4. The area required in a yard shall be open to the sky, unobstructed, except for the ordinary projections of windowsills, belt courses, cornices or other ornamental features.
5. A roof overhang, an open fire escape or an outside stairway may project not more than three feet (3') into a required side yard, but no closer than seven feet (7') to a property line.

D. Rear Yards.

An accessory building not exceeding twenty feet (20') in height may occupy not to exceed twenty-five percent (25%), and unenclosed parking spaces may occupy not to exceed eighty percent (80%), of the area of a required rear yard. No accessory building shall be closer than twenty feet (20') to the main building nor closer than ten feet (10') to any rear or side lot lines.

Section 17. Nonconforming Uses.

The lawful use of a building existing upon the effective date of this Ordinance may be continued, although such use does not conform to the provisions hereof. Such use may be extended throughout such portions of the building as are arranged or designed for such use,

provided no structural alterations, except those required by law or ordinance, are made therein. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. If such nonconforming building is voluntarily removed, the future use of such premises shall be in conformity with the provisions of this Ordinance.

In the event a non-conforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the provisions of the district in which it is located.

A non-conforming use, if changed to a conforming use or a more restricted non-conforming use, may not thereafter be changed back to a less restricted use than that to which it was changed.

If by amendment to this Ordinance any property is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive or of a higher classification, the provisions of this Ordinance relating to the non-conforming use of buildings or premises existing upon the effective date of this Ordinance shall apply to buildings or premises occupied or used upon the effective date of such amendment. Repairs and alterations may be made to a non-conforming building, provided that no structural alterations or extensions shall be made except those required by law or ordinance, unless the building is changed to a conforming use.

A non-conforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause. In the case of partial destruction by fire or other causes not exceeding fifty percent (50%) of its value, the Judge of the Municipal Court shall issue a permit for reconstruction. If destruction is greater than fifty percent (50%) of its value, the City Council may grant a permit for repair or replacement after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated non-conforming use and the purpose of this Ordinance.

Section 18. Special Use Regulations.

The City Council has the responsibility for granting any special permits.

Before authorization of any special uses, the request must be referred to the City Council for study and report concerning the effect of the proposed use on the character and development of the neighborhood. A public hearing shall be held in relation thereto before the City Council, notice and publication of the time and place for which shall conform to the procedure prescribed by law.

Section 19. Building Permits.

No dwelling, mobile home or modular home shall be erected or placed on land within the city limits of Post Oak Bend until a building permit has been issued by the City Council. The City Council must verify by state law that the builder is registered with the state. The builder must provide proof of registration. A building permit issued shall be construed to be a license to proceed with construction, repair or work necessary and appropriate to make the building fit for habitation. Every permit issued shall become invalid if the work authorized by such permit is not commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of one year after the time the work is commenced. An applicant for a building permit shall pay a fee established by the City Council. All such fees shall

be deposited to the general fund of the City of Post Oak Bend. No person shall engage in the moving, transporting or conveying of any structure or building along, across or over any public street, alley or highway or other public place without obtaining a building permit. The building permit shall contain the address to which the building or structure is to be moved.

Section 20. Moving Structures from Outside City Limits is Prohibited.

No person shall move buildings into the city limits of Post Oak Bend from outside the city limits of Post Oak Bend, except in the following circumstances, and upon approval by the City Council:

- A. A structure being moved into the City for historical preservation which meets one or more of the criteria of historical significance and the structure is being moved to a site which is declared a historical landmark.
- B. Prefabricated structures being moved as assembled units from factory sites to a destination site within the city limits.
- C. A structure may be moved through the City from outside the city limits if the destination site is outside the City, either pursuant to a state highway permit if the move is over a state or federal highway or otherwise pursuant to this Ordinance.

Section 21. Parking Regulations.

Within District RSF, there shall be a minimum of one off-street parking space for each dwelling unit. The City Council may prescribe such other parking requirements as it may deem appropriate to safeguard, protect, and conserve property and property values in the City.

Section 22. Enforcement and Penalties.

It shall be the duty of the Judge of the Municipal Court to enforce the provisions of this Ordinance. Any person who shall violate any of the provisions of this Ordinance, or who shall fail to comply therewith or with any of the requirements thereof, shall for each and every violation or non-compliance be deemed guilty of a misdemeanor and shall be fined not more than two thousand dollars (\$2,000.00), and each day such violation shall be permitted to exist shall constitute a separate offense. The owner of that building or premise or part thereof where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent or corporation employed in connection therewith who may have assisted in the commission of any such violation shall each be guilty of a separate offense and upon conviction shall be subject to the penalties herein provided.

The City of Post Oak Bend may pursue the option of seeking civil remedies (such as temporary restraining orders, injunctions, or civil fines) in addition to criminal remedies, if the City Council so approves by Motion.

Section 23. Severability/Validity.

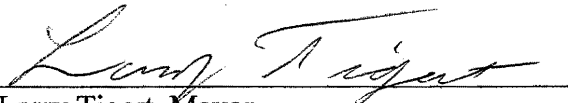
It is the intention of the City Council of the City of Post Oak Bend that if any phrase, sentence, section, or paragraph, of this Ordinance shall be declared unconstitutional or otherwise invalid by final judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remainder of this Ordinance since the same would have been enacted by the City Council without the incorporation of the unconstitutional or invalid phrase, sentence, section or paragraph.

Section 24. Effective Date.

This Ordinance shall become effective from and after the date of its approval and adoption as provided by law

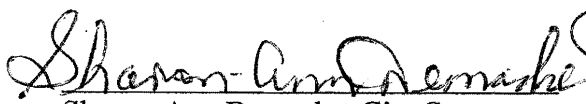
PASSED AND APPROVED this 17th day of February, 2006.

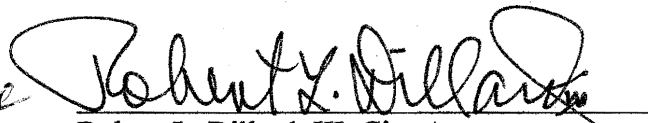
APPROVED:


Larry Tigert, Mayor

ATTESTED:

APPROVED AS TO FORM:


Sharon-Ann Demaske, City Secretary
(78808)


Robert L. Dillard, III, City Attorney