

ORDINANCE NO. 04-913

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, PROVIDING RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND AND PLATS WITHIN THE CITY AND ITS EXTRATERRITORIAL JURISDICTION; PROVIDING DEFINITIONS; ESTABLISHING PROCEDURES AND REQUISITES FOR THE SUBMISSION AND APPROVAL OF PLATS; CONTAINING REQUIREMENTS AND MINIMUM DESIGN AND CONSTRUCTION STANDARDS FOR STREETS, UTILITIES, AND OTHER PUBLIC IMPROVEMENTS; PROVIDING FOR OVERSIZING AGREEMENTS AND PRO RATA REIMBURSEMENTS; CONTAINING OTHER MATTERS RELATED TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ORDINANCE NO. 603, PASSED AND APPROVED ON THE 15TH DAY OF AUGUST, 1983, ORDINANCE NO. 03-906, PASSED AND APPROVED ON THE 19TH DAY OF DECEMBER, 2003, AND ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY

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WHEREAS, Chapter 212, Texas Local Government Code, authorizes cities of the State of Texas to promulgate rules and regulations governing plats and the subdivision of land within their corporate limits and their extraterritorial jurisdictions; and

WHEREAS, such regulations are authorized in order to protect and promote the health, safety and general welfare of the community; and

WHEREAS, the City Council of the City of Fulshear, Texas, hereby finds and determines that establishing rules and regulations governing plats and the subdivision of land is necessary to ensure the safe, orderly and healthful development of the community; and

WHEREAS, a public hearing before the City Council was held on the 19th day of November 2003, at which hearing all persons desiring to be heard were heard concerning City of Fulshear Subdivision Ordinance
07/21/2004

adoption of the rules and regulations governing plats and the subdivision of land as contained herein; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. Findings and Purpose. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

The City of Fulshear hereby adopts these subdivision regulations to provide for the orderly, safe and healthful development of the lands within the City limits or within the City's extraterritorial jurisdiction as provided for in Chapters 42 and 212 of the Texas Local Government Code, and for the following additional purposes:

- a. To implement and give effect to the City's Comprehensive Plan and Major Thoroughfare Plan.
- b. To preserve and protect the public health, safety, and general welfare, and to preserve and protect property values within the City's jurisdiction.
- c. To ensure that adequate public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed development.
- d. To provide for adequate light, air and privacy, to secure safety from fire, flood, and other dangers, and to prevent overcrowding of the land and undue congestion of population.
- e. To protect the character and the social and economic stability of all parts of the municipality and to encourage the orderly and beneficial development of the

community through appropriate grown management techniques, to assure proper open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development.

- f. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewer, schools, parks, playgrounds, recreation, and other public requirements and facilities.
- g. To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
- h. To preserve the natural beauty and topography of the municipality and extra territorial jurisdiction and to ensure appropriate development with regard to these natural features.

Section 2. This Ordinance shall apply to all subdivisions of land within the City and its extraterritorial jurisdiction, except where specifically exempted herein.

Section 3. Definitions. For the purposes of this Ordinance, the following terms, phrases and words, shall have the meanings ascribed thereto. When consistent with the context, words used in the present tense shall include the future tense; words used in the singular number shall include the plural number; and words used in the plural number shall include the singular number. Any office referred to herein by title shall include the person employed or appointed for that position or his or her duly authorized representative. Terms, phrases, or words not expressly defined herein are to be considered in accordance with customary usage.

Block shall mean an identified tract or parcel of land established within a subdivision surrounded by a street or a combination of streets and other physical features and which may be further subdivided into individual lots or reserves

City shall mean the City of Fulshear, Texas, a municipality existing pursuant to the laws of the State of Texas.

City Building Official shall mean the person authorized by the City as its Building Official, or his duly authorized representative.

City Council shall mean the duly elected governing body of the City.

Commission shall mean the Planning Commission of the City.

Comprehensive Plan shall mean the general plan for growth and development of the City and its environs, including any and all applicable elements of such plan, such as a land use plan, utilities plan, drainage plan, infrastructure master plan, parks plan, and others.

Development plat shall mean a plat required to be prepared in accordance with this Ordinance and designed for review and approval in order to undertake development or improvement on a previously unplatted single parcel of property located within the City or within the City's extraterritorial jurisdiction. This requirement shall not include land to be developed or used solely for agricultural (for example, farming, grazing) purposes.

Easement shall mean an area dedicated for restricted use on private property upon which a person or public or private entity has the right to remove and keep removed all or part of any building, fence, tree, shrub, or other improvement or growth that in any way endanger or interfere with the construction, maintenance, or operation of any of the respective utility,

drainage, access, or other authorized systems or facilities located within any such easement. Any such person or public or private entity owning an easement shall, at all times, have the right of unobstructed ingress and egress to, from, and upon said easement for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, or adding to or removing all or any part of the respective systems or facilities without the necessity at any time of procuring the permission of anyone.

Extraterritorial jurisdiction shall mean that area of land located outside the municipal boundaries of the City, as defined in Chapter 42 of the Texas Local Government Code.

Facilities agreement shall mean a contract entered into by the City and a developer or subdivider of property, where the developer is constructing oversized public improvements designed to serve adjacent property who will be required to make pro rata reimbursements.

Final plat shall mean a complete and exact subdivision plan prepared in conformity with the provisions of this Ordinance and in a manner suitable for recording with the County Clerk of Fort Bend County, Texas.

Lot shall mean a physically undivided tract or parcel of land having frontage on a public street or approved private street, which has been built to meet current City specifications and which is, or in the future may be, offered for sale, conveyance, transfer, lease, development, or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol on a duly approved subdivision plat that has been properly recorded.

Major Thoroughfare Plan shall mean the street layout plan adopted in 1987 by City Council, or any amendments or changes thereto approved and adopted by the City Council.

Person shall mean any individual, partnership, association, entity, firm, corporation, governmental agency, or political subdivision.

Preliminary plat shall mean a map or drawing of a proposed subdivision prepared in accordance with the provisions of this Ordinance, illustrating the features of the development for review and preliminary approval by the Commission, but not suitable for recording with the County Clerk of Fort Bend County, Texas.

Replat shall mean a map or drawing of all or a portion of an existing subdivision, prepared in accordance with the provisions of this Ordinance, where the purpose is to alter the original layout of streets, lots, or other features of the development.

Street, Private shall mean a privately owned and maintained thoroughfare or right-of-way, which provides vehicular access to adjacent land.

Street, Public shall mean a thoroughfare or right-of-way, dedicated to the public, and accepted for maintenance by the City or County, and which provides vehicular access to adjacent land.

Subdivider and/or *Developer* shall be synonymous for the purposes herein, and shall include any owner, or authorized agent thereof, proposing to divide or dividing any lot, tract, or parcel of land so as to constitute a subdivision according to the terms and provisions of this Ordinance.

Subdivision shall mean the division of any lot, tract or parcel of land, by plat, map, survey or legal description, into two (2) or more parts, lots or sites for the purpose, whether immediate or future, of sale, rental or lease, or division of ownership. Any dedication and the laying out or realignment of new streets, or other public or private access ways, with or without the creation of lots, shall constitute a subdivision. The term shall also include the resubdivision and replatting of land or lots that are part of a previously recorded subdivision. An “addition” shall mean a subdivision, as defined herein. The term “subdivision” shall also include the division of land, whether by plat or by metes and bounds description, and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Title certificate shall mean a certificate prepared and executed by a title company authorized to do business within the State of Texas, or an attorney licensed with the State of Texas, describing all encumbrances of record that affect the property, together with all recorded deeds. Such certificate shall include a description of all property included within the platted area, and such certificate shall not have been executed more than thirty (30) days prior to submission of same to the Commission.

Section 4. Special Provisions.

A. Plat Approval Required. It shall be unlawful for any person to subdivide any tract, lot, or parcel of land within the City or within the extraterritorial jurisdiction of the City, unless and until preliminary and final plats of such subdivision, or a development plat of a single unplatted lot have been approved in accordance with the terms of this Ordinance, unless such division is specifically excepted from platting requirements by this Ordinance. Unless and until

a preliminary and a final plat, plan or replat of a subdivision shall have been first approved in the manner provided herein by the Commission, it shall be unlawful for any person to construct or cause to be constructed any street, utility facility, building, structure, or other improvement upon any lot, tract, or parcel of land within such subdivision, except as specifically permitted herein. In addition, it shall be unlawful for any official of the City to issue any permit for such improvements, or any aspect thereof, or to serve or connect said land, or any part thereof, with any public utility that may be owned, controlled, or distributed by the City. Provided, further, it shall be unlawful for any person to serve or connect any lot, tract, or parcel of land within any such subdivision with any utility service or facility, unless and until a final plat of such subdivision has been approved in accordance herewith.

B. Improvements Required. All improvements required under the City's applicable regulations shall be constructed at the sole expense of the Developer. These improvements may include, but are not limited to those specified in the City's Comprehensive Plan, the City's design standards, other ordinances, applicable County and Drainage District regulations, and improvements which, in the judgment of the Commission and Council, are necessary for the adequate provision of streets, drainage, utilities, municipal services and facilities to the subdivision.

C. Variance. A variance from any such rule or regulation may be granted by City Council, only upon a good and sufficient showing by the owner that (1) there are special circumstances or conditions affecting the property in question; and (2) that enforcement of the provisions of this Ordinance will deprive the applicant of a substantial property right; and if a

variance is granted it will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity. Each and every application for a variance shall be decided solely and entirely on its own merits, and the disposition of any prior or pending application for a variance shall not be allowed to enter into or affect any decision on the application in question. Financial interests shall not be considered as a basis for the granting of a variance. No application for a variance shall be considered, unless submitted to the Council, in writing, no later than the date application for final plat approval is submitted.

D. Non-maintenance of Streets. The City shall not repair, maintain, install, or provide any streets or public utility services within any subdivision for which a final plat has not been approved and filed of record, or within which the standards contained herein or referred to herein have not be complied with in full; unless such streets have been separately accepted for maintenance by action of Council. In no instance shall the City or its taxpayers bear any responsibility for repairing, maintaining, installing, or constructing any streets or public utility services within any subdivision located within the extraterritorial jurisdiction of the City, except as may be provided for by separate agreement.

E. Exceptions. The provisions of this Ordinance shall not be construed to prohibit the issuance of permits for construction on any lot that had been properly subdivided in accordance with the terms and provisions of Ordinance No. 603, passed and adopted on or about August 15, 1983, or on any lot that was in existence prior to August 15, 1983, or to prohibit the repair, maintenance, or installation of any street or public utility service for, to, or abutting any lot, the last recorded conveyance of which, prior to the effective date of this Ordinance, was by

metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to the August 15, 1983. Any subdivisions that occurred prior to the effective date of this Ordinance, but after August 15, 1983, which were not properly platted in accordance with City of Fulshear Ordinance No. 603, passed and approved on or about the 15th day of August, 1983, must comply with this Ordinance.

The described subdivisions are further exempted from the requirements of this ordinance:

1. land to be developed or used for agricultural (for example, farming, grazing) purposes. Prima facie evidence of such use shall be determined by the tax designation applied to the property by the Fort Bend Central Appraisal District.

F. Authorized Agent. A person may act as agent for a subdivider/developer upon submission, with each application for preliminary and/or final plat approval, of a notarized Power of Attorney, and such certification being dated not more than thirty (30) days prior to the date of filing such application. Such Power of Attorney must specifically authorize the applicant to act on behalf of the subdivider/developer, must specifically identify the tract proposed for subdivision, and must state that the Power of Attorney authorizes the agent to execute all necessary documents and dedicatory statements necessary to effect final plat approval and recording thereof.

G. Oversizing and Pro Rata Reimbursement Requirements.

1. The subdivider/developer shall be required to pay all costs of engineering, design, layout, construction and installation of all infrastructure required by this

ordinance and other applicable regulations that is necessary and required to serve ~~his~~ its development.

2. There shall be no participation by the City for payment of any infrastructure within a subdivision except when oversized facilities are required by the City to serve development beyond the subdivision. In such case, the terms and extent of City participation will be considered in each case by the council, considering the merits of each case and the conditions involved, and shall be in accordance with policies set forth by the council, or as required by law.

3. If it is necessary for the subdivider to extend City utilities through undeveloped property, the developer may be entitled to recovery of the costs of such extension of City utilities through agreed pro-rated collection of fees when the property is developed.

4. The commission and council may disapprove a plat whenever it is evident that adequate public facilities cannot, or will not, be supplied within a reasonable time.

5. For the purposes of this section, “oversize” shall mean that the capacity of the facility exceeds the capacity necessary to serve the development being platted. In the case of phased developments, all phases shall be considered in evaluating capacity requirements to serve the development. A determination of whether facilities are required to be oversized shall be reached during the preliminary platting phase of a development or sooner if the subdivision elects to submit a master or concept plan, or to have a pre-submission conference with City staff, as provided for in this chapter. Such determination

shall be based on engineering reports and analyses, traffic impact analysis, the City's master plan and other relevant information in the possession of the City, or requested to be supplied by the subdivider.

H. Pro Rata Payments.

1. Should an owner or developer, whose property fronts on a street, alley and/or easement containing an existing water or sewer main, subdivide or develop such property, he shall pay the pro rata charges on all property owned by him for the front footage along the street, alley and/or easement where the City's mains are located.

2. The developer shall be fully responsible for the construction of oversize or off-site access, utilities, drainage, and other improvements necessary for his subdivision and the surrounding area, unless other provisions are approved by the City Council. Provisions for reimbursement of costs in excess of those necessary to serve his subdivision, and any other provisions, shall be made a part of the facilities agreement. For any subsequent subdivision utilizing such facilities, any costs due prior developers shall be prorated as the use by the new subdivision bears to the amount due. Such prorated amounts will be made a part of any subsequent facilities agreement, collected by the City, and repaid to the original developer making such improvements.

3. All such reimbursements or prorations shall be based on the actual cost of the improvements at the time of their construction, subject to comparison with other current unit and/or project costs. The original developer shall therefore provide the City

with acceptable documentation of actual construction costs from which calculation of reimbursable amounts will be made for inclusion in the facilities agreement.

4. In the case that the subdivision shall utilize streets, utilities, drainage, or other facilities already constructed through the use of funds of the City, the developer shall pay to the City for the use of such facilities an amount equal to that which would be required to serve the subdivision under the requirements of this chapter, based upon policies as may be developed and approved by the City Council.

5. In the event a developer of property within the City or the extraterritorial jurisdiction constructs at his cost offsite roadway improvements as designated on roads on the City's thoroughfare plan, the developer shall be entitled to and shall receive reimbursement for the costs incurred in constructing or causing to be constructed such roadway improvements. Upon the event of such construction and as a condition precedent to the approval by the City of the earlier of the submission of a preliminary or final subdivision plat or the commencement of actual development (if a final plat is already filed by the owner of property adjacent to a roadway constructed by the developer), the adjacent property owner shall reimburse the developer for the adjacent owner's pro rata share (as calculated below) of the costs incurred by the developer in connection with the roadway improvements.

6. The reimbursable cost of the roadway improvements shall include, but shall not be limited to, acquisition of rights-of-way, easements, design, legal and engineering fees, and all costs of construction, including, but not limited to, grading,

paving, curbs and gutters, medians and improvements thereto, utilities, utility taps, drainage facilities, sidewalks, pedestrian ways, traffic signing, landscaping, and street lighting. All pro rata payments levied are a personal liability and charge against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

Section 5. Procedure for Submission of Plats.

A. Preliminary Conference. Prior to the official filing of a preliminary plat, the subdivider may consult with City staff for comments and advice on the procedures, specifications, and standards required by the City as conditions for subdivision plat approval.

B. Application for Preliminary Plat Approval. Any person desiring approval of a preliminary plat shall first file, in triplicate, an Application for Preliminary Plat Approval. Forms for such application shall be kept on file with the City Secretary and shall be in a form approved by the Commission. Consideration of a preliminary plat by the Commission shall not occur unless a fully completed and executed application, with all required documents and fees, has been filed in accordance with this Ordinance. If the form of the Application or plat submitted therewith does not conform with or meet the minimum requirements of this Ordinance, the Chairman of the Commission is hereby authorized to deny, on behalf of the Commission, any Application for preliminary plat approval.

1. Submittal Date and Time. All plats, maps, reproductions, fees, applications, and related materials shall be submitted to the City Secretary not later than three o'clock (3:00) p.m., twelve (12) days prior to the next regular Commission meeting. Materials received after three o'clock (3:00) p.m. on the date specified herein shall automatically be placed on the agenda of the second regular meeting of the Commission following submittal.

2. Copies Required. The applicant shall provide eleven (11), twenty-four inch by thirty-six inch (24" x 36") paper prints from the original drawing of the plat, reproduced on white paper with blue or black lines, each of which shall be folded to eight and one-half inches by fourteen inches (8-1/2" x 14".)

3. Filing Fees. An Application for Preliminary Plat Approval shall be accompanied by a nonrefundable application fee, tendered in the form of a check made payable to the "City of Fulshear, Texas," in the amounts adopted, and from time to time amended, by the City Council and on file with the City Secretary of the City.

4. Encumbrances Information. Initial plat submittals shall be accompanied with a title opinion or a statement or certificates, either in separate writing or on the plat, executed by the applicant or the person who prepared the plat, which certifies that all existing encumbrances other than liens, such as various types of easements, fee strips, or significant topographical features on the land being platted, are fully shown and accurately identified on the face of the plat and, further, stating whether the plat being submitted includes all of the contiguous land that the subdivider owns directly or indirectly, or has a legal or beneficial interest in, or whether the subdivider owns or has a legal interest in any adjacent property. If the subdivider owns or has a legal interest in any adjacent property, the extent of such ownership and a boundary description of the land involved shall also be provided.

5. Notice to Utilities. Evidence of notice to all utility companies that provide service to the area encompassed by the proposed subdivision, whether public or private, shall accompany each Application for Preliminary Plat Approval. Such notice shall contain a statement of the intent to subdivide, the intended use of the property within the subdivision, and shall have attached to such notice a copy of the preliminary plat that is filed within the City.

6. Environmental Assessment. The Owner shall obtain a Phase I environmental assessment to determine that there are no hazardous materials on the area to be developed. If hazardous materials are found, appropriate remediation should be performed in accordance with Texas Commission on Environmental Quality standards.

7. Special Studies. The Owner shall comply with all federal and state laws pertaining to archeological, geological, wetlands, and endangered species applicable to the property.

C. Form and Content of Preliminary Plats. All preliminary plats submitted to the Commission shall be in the form, and contain fully all information and/or language required hereunder:

1. The proposed name of the subdivision or development, which shall not be a duplicate of any subdivision or development of record within Fort Bend County, Texas;
2. The legal description of the property proposed to be subdivided, including the name of the County, survey, and abstract number, together with reference to at least one established corner of a nearby recorded subdivision or the nearest public street right-of-way intersection;
3. The total acreage, and total number of lots, blocks, and reserves;
 - a. proposed use of land;
 - b. setbacks;
 - c. green or open space;
 - d. easements and rights of way; and
 - e. pipelines, including setbacks, and available information on the content and what the pipeline is engineered for.
4. The name(s) of the owner(s) of the property. If the owner is other than a natural person, the name of the principal officer, or owner, of the entity that owns such property,
5. The name of the person or firm who prepared the plat;
6. The date on which the plat was drawn;
7. The north point. The drawing of the subdivision shall be oriented with north to the top of the drawing;
8. The scale shall be drawn numerically and a graphic scale shall be provided. The scale acceptable for a preliminary plat shall be one inch equals one-hundred feet (1":100'), or for projects less than ten (10) acres the scale acceptable for a preliminary plat shall be one inch (1") equals fifty feet (50') (1":50').

9. A scale vicinity map, shall be provided and made a part of the plat indicating the general location of the subdivision and its relationship with well-known streets, railroads, water courses, and similar features in all directions from the subdivision to a distance not less than one-half (1/2) mile. The scale of the vicinity map shall be to legible scale and shall be oriented with north to the top of the drawing that shall also be the same direction as the detailed subdivision drawing;

10. The plat boundaries shall be drawn with heavy lines to indicate the subdivided area with overall survey dimensions and bearings. Lines outside the plat boundary shall be drawn as dashed lines;

11. The adjacent areas outside the plat boundaries shall be identified indicating the name of adjacent subdivisions (including recording information), the names of the recorded owners of adjacent parcels of land, churches, schools, parks, bayous, and drainage ways, acreage, and all existing streets, easements, pipelines, and other restricted uses;

12. The location and approximate width of existing and proposed water courses, ravines, and drainage easements, topographical elevations; and the boundaries of designated flood zones, as provided in the latest edition of the *Federal Insurance Rate Map* as published by the Federal Emergency Management Agency. All such information required herein shall be certified by a Registered Professional Land Surveyor and/or a Registered Professional Engineer authorized to do business in the State of Texas;

13. Contours with intervals of five-tenths foot (0.5'), referred to sea level (U.S. Coast and Geodetic Survey) datum, as required to show at least two (2) contours within and adjacent to the subdivision. If the change in elevation throughout the property to be subdivided is less than one foot (1'), then the plat is to clearly show the outfall drainage plan and identify basis of control and temporary benchmark set within the subdivision;

14. The location and identification of all tracts not designated as lots within the boundaries of the plat. Such tracts, if not restricted for specific uses, shall be identified as "Unrestricted Reserve." "Restricted Reserves" shall be indicated on the plat and shall be designated as single-family residential, utility, church, park, recreational, school, or other specific use;

15. The location, widths, and names, of all existing or proposed streets, roads, alleys, and easements, within the plat boundaries or immediately adjacent thereto, the location of all existing permanent buildings within the plat boundaries, and all existing easements and other important features, such as section lines, political subdivision, or

corporate limit lines, on all sides for a distance of not less than two hundred (200) feet. A traffic impact study may also be required to be completed by the Developer, on recommendation by the Commission to assure that adequate public facilities for transportation generated by the proposed development are being provided.

16. The names of all existing and proposed streets located within the plat boundaries or immediately adjacent thereto;

17. The location of all lots, blocks, building setback lines, and other features, within the plat boundaries, with approximate dimensions;

18. Existing sewers, water and gas mains, culverts, bridges, pipelines, structures, or public utilities within the tract and immediately adjacent thereto with pipe sizes, grades, and locations indicated;

19. The proposed layout of the subdivision, showing streets, blocks, lots, alleys, easements, building lines, and parks, with principal dimensions; and

20. A letter certifying that water and sewer service is available to the subdivision, and that such services will be provided, from the appropriate utility provider, or a letter certifying that private wells and septic system will work on the property.

D. Application for Final Plat Approval. Any person desiring approval of a final plat shall first file an Application for Final Plat Approval. Forms for such applications shall be kept on file with the City Secretary and shall be in a form approved by the Commission. Consideration of a final plat by the Commission shall not occur unless a fully completed and executed application has been filed in accordance with this Ordinance. The Chairman of the Commission is hereby authorized to deny, on behalf of the Commission, any Application for Final Plat Approval that is not fully completed and executed in accordance with this Ordinance.

1. Time for Filing. All plats, maps, reproductions, fees, applications, and related materials shall be submitted to the City Secretary not later than three o'clock (3:00) p.m., fifteen (15) days prior to the next regular Commission meeting. Materials received after three (3) o'clock p.m. on the date specified herein shall automatically be

placed on the agenda of the second regular meeting of the Commission following submittal.

2. Copies Required. The applicant shall provide eleven (11) twenty-four inch by thirty-six inch. (24" x 36") paper prints from the original drawing of the plat reproduced on white paper with blue or black lines, each of which shall be folded to eight and one-half inches by fourteen inches (8-1/2" x 14"). All materials shall also be submitted in electronic format acceptable to Fort Bend County.

3. Filing Fees. An Application for Final Plat Approval must be accompanied by a nonrefundable application fee tendered in the form of a check made payable to the "City of Fulshear, Texas," in the amounts adopted, and from time to time amended, by the City Council and on file with the City Secretary of the City.

4. Certificates of Availability of Utilities. Each final plat shall be accompanied by a written certification from each entity, whether public or private, from which utility services are to be received, certifying the availability of same, and that such entity agrees to provide its respective utility service to the subdivision. In addition, where applicable, each such entity providing utility services shall certify approval or conformance of the construction plans to ensure compliance with such utility entity's construction standards.

E. Form and Content of Final Plat. All final plats shall incorporate all of the provisions relating to preliminary plats as provided in paragraph C of Section 5 of this Ordinance and, where appropriate, reflect any conditions and requirements of final approval previously imposed by the Commission, together with the following additional requirements:

1. The final plat shall be drawn on stable plastic film, such as Mylar or positive photographic film, with black lines and image and shall be made suitable for the reproduction of direct positive prints and reproductions;

2. Scale for a final plat drawing shall be one inch equals one hundred feet (1":100');

3. All engineering and surveying data shall be shown on the final plat sufficient to locate all of the features of the plat on the ground. This data shall include, but not be limited to, full dimensions along all boundaries of the plat; street and alley rights-of-way; easements; drainage ways, gullies, creeks, bayous, together with the location of the high bank of such drainage ways and water courses; lots; blocks; reserves;

out tracts, or any other tracts designated separately within the plat boundaries; fee strips, or any other physical or topographical features necessary to be accurately located by surveying methods. Such information shall include line dimensions, bearings of deflecting angles, radii, central angles and degree of curvature, length of curves and tangent distances, all of which are to be shown in feet and decimal fractions thereof;

4. The name of the current owner and their address. If the record owner is a company or corporation, the name of the responsible individual, such as the president or vice president;

5. The name and seal of the Registered Professional Land Surveyor and/or Registered Professional Engineer responsible for preparing the plat;

6. The date of submittal or the date of submittal of each subsequent revision;

7. All streets and alleys with street names, or other rights of way, widths measured at right angles or radially (where curved), complete curve data (R, L, P.C., P.R.C., and P.T.) length and bearing all tangents between curves;

8. Building lines and easements shall be shown and shall be defined by dimension. All principal lines shall have the bearing given and deviation from the norm indicated. The plat must provide a note stating that all existing pipelines or pipeline easements through the subdivision have been shown or that there are no existing pipeline easements within the limits of the subdivision;

9. All field surveys shall be accurate to, and performed in accordance with, the appropriate provisions of the current edition of the *Manual of Practice Standards for Surveying in Texas*, as periodically published by the Texas Society of Professional Surveyors. Linear dimensions shall be expressed in feet and decimal fractions thereof of a foot; angular dimensions may be shown by bearings in degrees, minutes, and seconds. Curved boundaries shall be fully described and all essential information given. Circular curves shall be defined by actual length of radius and not by degree of curve;

10. The intended use of all lots within the subdivision shall be identified on the plat. All tracts not designated as lots within the boundaries of the plat shall be identified as provided herein; and

11. All dedication statements and certificates shall be made a part of the final plat drawing and shall conform in form and content to the form of statements and certificates set forth in Appendix A to this Ordinance, which is incorporated herein and made a part hereof for all purposes.

F. Plat Drawing, Reproductions, and Filing. The original plat drawing for an approved final plat shall be submitted to the Commission on a suitable permanent translucent material that the Commission shall, by written rule and from time to time, designate, including, but not limited to, tracing linen, plastic film, or positive photographic film with lines, with lettering and signatures in black ink or image. The names of all persons signing any such plat shall also be lettered under the signature line. Two (2) paper prints from the original plat drawing (white paper with blue or black lines) and one (1) positive vellum or film transparency shall also be provided. Filing of such final plats with the County Clerk of Fort Bend County, Texas, for recording, shall be made by the City. Such filing shall not be made until (a) completion by the developer of all improvements required as a condition of plat approval and acceptance of such improvements by the City Engineer and City Council or, (b) the filing of a sufficient guarantee of such performance by the developer in accordance with the requirements herein stated. Such filing by the City shall be made promptly upon satisfaction of either condition.

G. Title Report. A current title report, statement or opinion, title policy or certificate or letter from a title company authorized to do business in the State of Texas, or an attorney licensed as such in the State of Texas, shall be provided certifying that, within thirty (30) days prior to the date the final plat is dated and filed with the Commission, a search of the appropriate records was performed covering the land proposed to be platted and providing the following information concerning the title to said land:

1. The date of the examination of the records;

2. A legal description of the property lying within the proposed subdivision, including a metes and bounds description of the boundaries of said land;

3. The name of the record owner of fee simple title as of the date of the examination of the records, together with the recording information of the instruments whereby such owner acquired fee simple title;

4. The names of all lienholders, together with the recording information and date of the instruments by which such lienholders acquired their interests;

5. A description of the type and boundaries of all easements and fee strips not owned by the subdivider of the property in question, together with certified copies of the instruments whereby the owner of such easements or fee strips acquired their title, and the recording information for each such instrument; and

6. A tax certificate from each city, county, school, utility, or other governmental entity in which the land being platted is located showing that no delinquent taxes are due such entity for the property being platted.

H. Commission Action. The Commission shall review each plat submitted to it on a preliminary basis and upon a final basis. The Commission shall approve any plat if it is in compliance with all provisions of this Ordinance and other rules and regulations as may have been or may be adopted by the City Council governing plats and/or the subdivision of land. Upon the receipt of a plat, the Commission shall review and act on preliminary plats within a reasonable time, but, in accordance with State law, must review and act on final plats within thirty (30) days from the date of such application with the submittal date not being counted within said 30 day period. Within these time constraints, Commission may take the following actions:

1. Grant preliminary approval or preliminary approval with conditions;
2. Defer preliminary action until the next regular meeting;

3. Grant final approval, if in conformance with the conditions of preliminary approval or final approval subject to additional conditions; or

4. Disapprove any plat, either preliminary or final, if the Commission determines that such plat fails to comply with the policies, standards, or requirements contained in this Ordinance or other rules or regulations as may have been adopted by the City Council governing plats and/or the subdivision or land.

I. City Council Action. Council shall review each plat submitted to it on a preliminary basis and upon a final basis, following review and recommendation by Commission. Council shall approve any plat if it is in compliance with all provisions of this Ordinance and other rules and regulations as may have been or may be adopted by the City Council governing plats and/or the subdivision of land. Upon the receipt of a plat, the Council shall review and act on preliminary plats within a reasonable time, but, in accordance with State law, must review and act on final plats within thirty (30) days from the date of application with the submittal date not being counted within said 30 day period. Within these time constraints, Council may take the following actions:

1. Grant preliminary approval or preliminary approval with conditions;

2. Defer preliminary action until the next regular meeting;

3. Grant final approval, if in conformance with the conditions of preliminary approval or final approval subject to additional conditions; or

4. Disapprove any plat, either preliminary or final, if the Council determines that such plat fails to comply with the policies, standards, or requirements contained in this Ordinance or other rules or regulations as may have been adopted by the City Council governing plats and/or the subdivision or land.

J. Effect of denial of plat by Commission. Should the Commission deny any plat, the applicant shall have the choice of withdrawing the plat to correct any deficiencies, and then resubmitting such plat to Commission and subsequently to Council, or may continue the

plat application, with a negative recommendation, to Council. This appeal process shall be a necessary step prior to the initiation of any litigation against the City.

K. Expiration of Plat Approval.

1. All preliminary plat approvals granted by the Commission or Council, and the conditions thereon, if any, shall be valid for a period of twelve (12) months from the date on which the approval was granted.

2. All final plat approvals granted by the Commission or Council and the conditions thereon, if any, shall be valid for a period of twelve (12) months from the date on which the final approval was granted.

3. Extension of approvals. The Council may, upon receipt of a written request from the subdivider or his authorized agent, prior to the expiration date of a preliminary or final plat approval, extend the term of approval for any time period not to exceed an additional twelve (12) months. The maximum term for approval of any preliminary or final plat that has not been duly recorded shall not exceed a total of twenty-four (24) months from the date on which the Council granted preliminary or final plat approval.

Section 6. Parkland Dedication Requirements.

A. Purpose.

1. The purpose of this section is to provide recreational areas in the form of neighborhood and regional parks and trail systems linking public areas and subdivisions, as a function of subdivision development within the City of Fulshear, Texas, and its extraterritorial jurisdiction. It is hereby declared that recreational areas in the form of neighborhood parks are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and development property or subdivisions within the City.

2. Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby. Park zones shall be recommended by the Commission or as delegated by Council and shown on an official parks and recreation map for the City of Fulshear, which shall be adopted by the City Council, and shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary cost of neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. Therefore, the following requirements are adopted to effect the purposes stated.

3. Regional parks are those parks not primarily serving a specific neighborhood, but rather designed to serve the entire City and its extraterritorial jurisdiction, such as ballparks and soccer field complexes, and trail systems which connect various neighborhoods.

4. Parks dedicated to a municipal utility district shall be considered public parks.

B. General requirement for land to be used for single-family, duplex, and/or multi-family residential purposes.

1. Whenever a final plat is filed of record with the County Clerk of Fort Bend County for development of a residential area in accordance with this Ordinance, such plat shall contain a clear fee simple dedication of an area of land to the City (or to a municipal utility district) for neighborhood park purposes, which area shall equal one (1) acre for each one, hundred (100) proposed dwelling units. Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated under this section. The required dedication of this section may be met by a payment of money in lieu of land, the pledge of security guaranteeing a future dedication of park land, or the provision of private neighborhood park land when permitted or required by the other provisions of this section. Subject to City Council approval, the developer of a project containing at least three hundred (300) acres, which has received concept plan approval and which provides for a park area outside of the area currently being platted may, in lieu of the dedication of park land by the current plat, elect to provide an irrevocable letter of credit or other security instrument approved by the City in the amount set forth in paragraph C.3. Such letter of credit or other security instrument shall guarantee that the developer will dedicate the amount of land required by paragraph A of this section, in the park area designated in the concept plan, within three (3) years after the date of the letter of credit or other security instrument. If such park land has not been dedicated by the third anniversary date of the security instrument, the City shall be entitled to collect the monies

guaranteed by the instrument as a cash payment in lieu of land or may allow the developer to extend the deadline for dedication of such park land to a date designated by the City. Such letter of credit or other security, instrument shall be submitted to and approved by the City prior to final plat approval. Provided, however, the developer may elect to record upon the final plat the following notation: "No building or other permit, except permits for construction of public improvements, will be issued by the City of Fulshear, Texas, for construction within the subdivision until such time as the security instrument required under the provisions of Section 7.E. of this Ordinance, has been submitted to and accepted by the City." In the event the developer places the above notation upon the final recorded plat of the subdivision in lieu of providing the security instrument, the City shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as a security instrument satisfying the requirements of this Section is submitted to and accepted by the City.

2. In instances where an area of less than five (5) acres is required to be dedicated, the City shall accept or reject the dedication of such public park within sixty (60) days following approval of the preliminary plat after consideration by the commission and the Council. In the event the City determines that sufficient park area already is in the public domain in the area of the proposed development, or if the recreation potential for that zone would be better served by expanding or improving existing parks, then the proposed dedication will be disallowed and the developer shall be required to make payment of cash in lieu of land, as provided by paragraph C of this section.

3. The dedication required by this section shall be made by filing of the final plat or contemporaneously by separate instrument unless additional dedication is required subsequent to the filing of the final plat. If the actual number of completed dwelling units exceeds the figure upon which the original dedication was based, such additional dedication shall be required, and shall be made by payment of the cash in lieu of land amount provided by paragraph C.3. of this section, or by the conveyance of an entire numbered lot to the City.

C. Money in lieu of land dedication for neighborhood parks.

1. Subject to approval of the City Council and the provisions of Section B.2. above, a developer responsible for dedication of neighborhood parkland under this section may elect to meet the requirements of paragraph B of this section, in whole or in part, by a cash payment in lieu of land, in the amount of three-hundred and fifty dollars per dwelling unit. Such payment in lieu of land shall be made at or prior to the time of final plat approval. Provided, however, the developer may elect to record upon the final plat the following notation: "No building or other permit, except permits for construction of public improvements, will be issued by the City of Fulshear, Texas, for construction

within the subdivision until such time as the payment of money in lieu of park land required under the provisions of Section 6.C.1 of Ordinance No. 03-906, has been submitted to and accepted by the City.” In the event the developer places the above notation upon the final recorded plat of the subdivision in lieu of making the payment of money in lieu of park land, the City shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as the payment of money in lieu of park land required by this Section C is submitted to and accepted by the City.

2. The City may, from time to time, decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land within a park zone, subsequent park land dedications for that zone shall be in cash only, and calculated to reimburse the City’s actual cost of acquisition and development of such land for parks. The cash amount shall be equal to the sum of (a) the average price per acre of such land, and (b) the actual cost of adjacent streets and on-site utilities, or an estimate of such actual cost provided by the Mayor. Once the City has been reimbursed entirely for all such park lands within a park zone, this paragraph shall cease to apply, and the other paragraphs of this section shall again be applicable.

3. To the extent that paragraph C.2. of this section is not applicable, the dedication requirement shall be met by a payment in lieu of land computed on the basis of three hundred fifty dollars (\$350.00) per dwelling unit.

D. Private neighborhood park land in lieu of dedicated park land.

1. A developer responsible for dedication under this section may elect to meet up to fifty percent (50%) of the requirements of paragraph B of this section by the provision of private neighborhood park land. Credit for private park land will be governed by the following criteria:

a. The land offered as private neighborhood park land must be open and accessible to all residents of the platted subdivision. Land or facilities that are excluded to a portion of the subdivision residents will not be considered as private neighborhood park land.

b. Land which is unencumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics will qualify for private neighborhood park land at full credit. Land that has recreation facilities on it such as tennis courts, swimming pools, playing fields, recreation buildings, etc., will also qualify for full credit.

c. Land which is encumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics shall not qualify for credit as usable park space, unless it contains active uses as outlined below.

(1) Pipeline or utility easements, or areas along lake borders and drainage ditches shall have:

(a) Hike/bike all-weather paths, landscaping and sodding installed according to the construction standards of the City. Paths must also be connected to recreational areas as part of an open space system; and

(b) An average minimum width of thirty feet (30') and a minimum width of twenty feet (20').

(c) Side slopes not to exceed a three to one (3:1) ratio, unless otherwise approved by the City;

2. Maintenance responsibility for areas offered as private neighborhood park land must be identified with the submission of a preliminary plat.

3. Land offered for private neighborhood park land credit, which is less than three acres in size, is generally discouraged unless it is an integral part of the private park and open space provisions of the subdivision. A list of landscaping and other improvements of special uses planned for areas of land less than one-half acre in size shall be submitted with the preliminary plat.

E. Contribution for Regional Parks

In addition to the provisions for neighborhood parks by dedication of land or the payment of fees in lieu thereof as described above, a developer shall contribute an additional three-hundred, fifty dollars (\$350.00) per dwelling unit for the development of regional parks. Such payment shall be made in the manner described in Section C.1., above.

F. Comprehensive plan considerations. Land shown in the Comprehensive Plan as being suitable for development of the City for a major recreation center, park, or other public use, shall be reserved for a period of one (1) year after the preliminary plat is approved by the City if within two (2) months after such approval the City Council advises the subdivider of its desire to acquire the land or of the interest of another government unit to acquire the land, for purchase by the interested governmental authority at land appraisal value at the time of purchase.

A failure by the City Council to so notify the subdivider shall constitute a waiver of the right to reserve the land. Any waiver of the right to reserve the land shall no longer be effective if the preliminary plat shall expire without adoption of a final plat.

G. Special funds, right to refund.

1. There is hereby established special funds for the deposit of all sums paid in lieu of land dedication under this section, which funds shall be known as the "Park Land Dedication Fund" and the "Regional Park Fund." Additional subfunds may be established as appropriate to track funds for different zones, if established, or different regional parks.

2. The City shall account for all sums paid in lieu of land dedication under this Section 6.E., with reference to the individual plats involved. Any funds paid for such purposes must be expended by the City within five (5) years from the date received for acquisition or development of a neighborhood park, or ten years for a regional park, as defined herein. Such funds shall be considered to be spent on a first in, first out basis for each park zone. If not so expended, then on the last day of such period, the then current owners of the property for which money was paid in lieu of land dedication shall be entitled to a pro rata refund of such sum, computed on a square footage of area basis. The owners of such property must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.

H. Additional requirements, definitions.

1. Any land dedicated to the City or provided as private neighborhood park land under this section must be appropriate for park and recreation purposes. The City reserves the right to reject any land that it deems as unsuitable for such purposes.

2. Drainage areas may be accepted as part of a park if the channel is constructed in accordance with City construction standards, the land is appropriate for park use, and if no significant area of a park is cut off from access by such channel.

3. Each park must have ready access to a public street.

4. Unless provided otherwise herein, an action by the City shall be by the City Council, after consideration of the recommendations of the commission and the Council. Any proposal considered by the commission under this section shall have been reviewed by the Council, and its recommendation shall be given to the commission.

5. This section shall become effective upon adoption by the City Council. Land under a concept plan previously reviewed and approved by the City will be exempt from provisions of this section for a period of four (4) years from the date of final adoption of this chapter. After four (4) years, any residential subdivision or section thereof not final platted will be subject to the provisions of this section.

Section 7. Design Standards. The City of Fulshear Design Standards are attached hereto as Exhibit “B” and incorporated herein for all purposes. Where such Design Standards or this Ordinance are silent, the Design and Construction Standards of Fort Bend County shall apply. Where there is a conflict between any two such standards, the more stringent requirement shall apply.

A. Compliance with Design Standards. No plat shall be approved by the Commission, and no permit shall be issued for the construction of any improvement intended for public use, or for the use of purchasers or owners of lots fronting or adjacent to such improvement, and no improvement intended for public use shall be accepted by the City, unless any such improvements shall comply with the City’s Design Standards.

B. Compliance with Other Regulations. All improvements required by this Ordinance shall conform to the City’s Comprehensive Plan, this Ordinance, and any other ordinance or regulation of the City applicable thereto. All improvements shall further conform to all regulations established by any other governmental entity having jurisdiction over development of land within Fort Bend County.

C. Public Streets – General Arrangement and Layout. The public street system pattern proposed within any subdivision shall comply with design standards of this section and shall:

1. provide for adequate vehicular access to all properties within the subdivision plat boundaries;
2. provide adequate street connections to adjacent properties to ensure adequate traffic circulation within the general area;
3. provide a local street system serving properties to be developed for residential purposes which discourages through traffic while maintaining sufficient access and traffic movement for convenient circulation within the subdivision and access by fire, police and other emergency services personnel; and
4. provide a sufficient number of continuous streets to accommodate the traffic demands generated by new development.

D. Streets: Specific Standards.

1. Public or Private Ownership. The location and alignment of streets proposed to be constructed within a subdivision or development shall be designed in conformance with the construction standards adopted by the City, whether such streets are to be dedicated to the public or retained in private ownership and control. Private streets shall be allowed only upon explicit approval by the City Council.

2. Right-of-Way Width, Widening. The width of the right-of-way to be dedicated for any street shall be at least sixty feet (60'). In those instances where a subdivision plat is located adjacent to an existing public street with a right-of-way width less than sixty feet (60'), sufficient additional right-of-way shall be dedicated within the subdivision plat boundary to accommodate the development of the street to a total right-of-way width of not less than sixty feet (60'). Notwithstanding the foregoing, the Commission may, on written application, and at its discretion authorize a street right-of-way width of not less than fifty feet (50') where such street cannot reasonably be made to continue or extend onto an existing, approved, proposed, or possible future street, is so located that logically it could not be extended to connect with an existing, approved, or proposed street, there is not a likelihood that it would inhibit the ability of the City to provide emergency services from fire, police, medical, or other rescue personnel.

3. Lots Required to Front on Street. All lots shown on the plat shall abut a public street, or a private street that shall meet all requirements herein for public streets. All lots shown on the plat shall have indicated thereon the front of the lot for subsequent construction of a building. Adequate off-street parking shall be provided for each lot.

4. Curves and Intersections. Curves along streets shall have a center line radius of not less than forty feet (40'), except that the center line radius on a reserve curve shall not be less than three hundred feet (300'). Reserve curves should be

separated by a tangent distance of not less than fifty feet (50'). The angle of street intersections shall not vary more than ten degrees (10°) from the perpendicular. Where acute angle intersections are approved a radius of at least twenty-five feet (25') in the right-of-way line at the acute corner shall be provided.

5. Cul-de-Sac Right-of-Way Radii. The radii of the right-of-way at the end of local streets terminated with a circular cul-de-sac turnaround shall be not less than fifty feet (50').

6. Dead-end Streets. Dead-end streets shall not be approved, except in instances where the street is terminated by a temporary circular cul-de-sac turnaround, or where the street is designated to be extended into adjacent property, and shall be signed as required by paragraph 5, above.

7. The developer shall be responsible for the installation of all required street signs and traffic control devices.

8. At least one ingress/egress point shall be provided for each one-hundred and fifty (150) dwelling units, or fraction thereof, or for each 2500 square feet of commercial floor space. For purposes of this ordinance, "ingress/egress point" shall include future planned roadways, so that if a street is provided to end at the boundary of the subdivision, such shall count for ingress and egress even though the actual road is not constructed.

E. Construction Of Improvements. All public or private improvements, as required herein, shall be constructed in accordance with or exceed the Design Standards referenced in the introductory paragraph of Section 7.

F. Street Names. All streets dedicated by plat shall be named, and so identified on such plat, in conformance with the following:

1. New Streets. New street names shall not duplicate existing street names located within the City of Fulshear, Texas, and its extraterritorial jurisdiction, other than extensions of existing streets;

2. Extensions of Existing Streets. Existing street names shall be used in those instances where a new street is a direct extension of an existing street or a logical extension (when the streets in question are not and cannot be physically continuous)

thereof, except in those instances where the existing street name is a duplicate street name;

3. Suffixes. Street name suffixes such as court, circle, or loop should be designated on streets that are cul-de-sacs or in a configuration of a loop street;

4. Prefixes. Street name prefixes such as north, south, east, and west may be used to clarify the general location of the street; however, such prefixes shall be consistent with the existing and established street naming and address numbering system of the general area in which the street is located; and

5. Alphabetical and numerical street names shall not be designated, except in those instances where such street is a direct extension of an existing street with such a name and is not a duplicate street name.

6. Street Name Change. No street name, once designated, may be changed except by City ordinance.

G. One-Foot Reserves. In those instances where a public street is dedicated by a plat submitted to the City and such public street forms a stub street onto adjacent unplatted acreage, or where such street lies along and parallel with a subdivision boundary and is adjacent to unplatted acreage, a one-foot wide reserve shall be established within the street right-of-way at its "dead-end" terminus, or along the right-of-way adjacent to such unplatted acreage, to form a buffer strip, dedicated to the public, between the public street right-of-way and the adjacent unplatted acreage, to prevent access to such public street from the adjacent unsubdivided acreage, unless and until the City has reviewed the development proposals for such adjacent acreage, and a plat of the adjacent property is duly recorded. The conditions associated with the establishment of a one-foot reserve on a plat are contained in the following notation that shall be placed upon the face of any plat where a one-foot reserve is to be established:

"One-foot reserve dedicated to the City in fee as a buffer separation between the side or end of streets where such streets abut adjacent acreage tracts,

the condition of such dedication being that when the adjacent property is subdivided pursuant to a recorded plat, the one-foot reserve shall thereupon become vested in the public for street right-of-way purposes.”

H. Partial or Half Streets. Partial or half streets may be dedicated in those instances where the Commission determines that it is necessary for the proper development of the land and in the public interest to locate a public street right-of-way centered on a property line. A partial or half street dedication within a subdivision dedicating less than a fifty-foot right-of-way width on a designated major thoroughfare, or less a thirty-foot right-of-way width for any other type public street, shall not be approved. Appropriate notations and the one-foot reserve dedication in fee as, provided in Section 7.G., hereof shall be placed upon the plat restricting access from any partial or half streets so dedicated to adjacent acreage tracts until the adjacent property is subdivided pursuant to a recorded plat and the additional adjacent right-of-way is acquired providing the full right-of-way as specified in this Ordinance.

I. Easements.

1. Utility Easements. Utility easements, both above and below grade, are those easements established by plat or separate instrument, which are designed to accommodate facilities necessary to provide various types of utility services to the individual properties within the plat boundaries. Utility easements may be used for, but not be limited to, facilities necessary to provide water, electrical power, natural gas, telephone, telegraph, cable television, and sanitary sewer services. In most cases, utility easements shall be below grade, except where the requirements of the utility providers require their major transmission lines to be located above grade. All easement locations and their placement above or below grade shall be resolved with the utility companies prior to preliminary plat approval.

(a) Location. Utility easements, excluding special use utilities such as gas, telephone, electric, and cable, shall be provided along the front of all lots, except when the Commission determines that such location is not feasible for the orderly development of the subdivision, or where the right-of-way is not wide enough to allow for the proper placement and maintenance of all utilities. Utility

easements located along the outer boundaries of a subdivision shall contain the full width required for such easement, except in those instances where the adjacent property is within a portion of a previously approved and platted subdivision and under the same ownership as the property being platted, or where additional easement width is dedicated by separate instrument by the owner of said adjacent tract. In such cases, one-half (1/2) of the required easement width shall be dedicated within the platted boundary with the other one-half (1/2) provided outside the platted boundary by separate instrument, or through notation on the plat certifying the ownership and dedication of said easement.

(b) Widths. All utility easements, including special use utilities such as gas, telephone, electric, and cable, established within any subdivision plat shall not be less than a total of ten feet (10') in width, which width may be split between adjacent lots, provided however, that a lesser amount shall be allowed where less width is required by the utility service provider.

(c) Limitations. All utility easements shall be limited to surface and below grade easements. Aerial easements over utility easements shall be limited to that necessary for transformers, amplifiers, and other similar devices that cannot be placed below grade, it being the express purpose and intent hereof to require all utilities, to the extent reasonably possible, to be placed below ground level.

2. Drainage Easements. All drainage easements shall be located and dedicated to accommodate the drainage requirements necessary for the proper development of the property within the subdivision boundaries and within its natural watershed and in conformance with the City's Comprehensive Plan, its regulations governing storm drainage and/or flood control, and the requirements of other governmental agencies having jurisdiction over storm drainage or flood control within the area in which the subdivision is located. A suitable note on the plat shall restrict all properties within the subdivision to ensure that drainage easements within the plat boundaries shall be kept clear of fences, buildings, obstructive vegetation, and other obstructions to the operation and maintenance of the drainage facilities therein.

3. Private Easements, Fee Strips.

(a) Existing Easements, Fee Strips. All easements or fee strips created prior to the subdivision of any tract of land shall be shown on the subdivision plat of said land with appropriate notations indicating the name of the holder of such easement or fee strip, the purpose of the easement and generally the facilities contained therein, the dimensions of the easement or fee strip tied to all adjacent lot lines, street rights-of-way and plat boundary lines, and the recording reference

of the instruments creating and establishing said easement or fee strip. In those instances where easements have not been defined by accurate survey dimensions such as “over and across” type easements, the subdivider shall request the holder of such easement to accurately define the limits and location of such easement through the property within the plat boundaries. If the holder of such undefined easement does not define the easement involved and will not certify his refusal to define such easement to the Commission, the subdivision plat shall provide accurate information as to the center line location of all existing pipelines or other utility facilities placed in conformance with the easement holder’s rights, and building setback lines shall be established fifteen feet (15’) from and parallel to both sides of the centerline of all underground pipelines or pole lines involved.

(b) Establishment of Special Use Utility or Drainage Easements. A special use utility or drainage easement may be established by subdivision plat when such easement is for the purpose of accommodating a utility or drainage facility owned, operated, and maintained by a unit of government and is restricted to either water mains, sanitary sewers, storm sewers, or other drainage purposes and where it has been determined by the Commission that these facilities cannot or should not be accommodated within a general purpose public utility or drainage easement or public street right-of-way. Easements proposed to be established for any privately-owned utility company or private organization providing utility services and restricted for their exclusive use shall not be created by a subdivision plat; however, such private utility facilities may be accommodated and placed within the general purpose utility easements and public streets established within the plat boundary. Nothing contained herein, however, may prevent such private companies or the subdivider from granting and establishing special or exclusive use easements by separate instrument if such arrangements are deemed necessary to properly serve the properties within the plat boundaries.

J. Federal Flood Insurance Program. No subdivision of land shall be approved unless same complies in all respects with the Fort Bend County’s, or the City’s Flood Damage Prevention regulations. Each final plat shall have depicted thereon applicable boundaries of all flood zones as provided in the latest edition of the FEMA Federal Insurance Rate Maps.

K. Building Setback Requirements. No plat of any subdivision shall be approved unless building setback lines are established therein in accordance with the following standards, all of which shall be measured from the property line:

Front: 25 feet; except cul-de-sac lots which may be 20 feet;

Side: 5 feet on each side;

Corner lots: 10 feet on street side; five feet on inner lot line.

L. Reserve Tracts. Reserve tracts are those individual parcels of land created within a platted subdivision which are not divided into residential or commercial lots, but are established to accommodate some specific purpose such as a private recreational facility, a future school or church site, or site for utility facilities or other activities or land uses for which division into lots is not suitable or appropriate. The expected use or future use of all reserve sites shall be designated on the preliminary and final plats. In certain limited instances, the use of reserve tracts may not be completely determined by the subdivider or developer at the time plats are prepared and submitted to the City. These reserve tracts may be established as “unrestricted reserves.” Designation as “unrestricted reserve” shall require replatting at the time of the future development if subdivided into residential lots or multi-family uses.

1. Street Access. Reserves established on any subdivision plat shall have frontage on and be immediately adjacent to at least one public street, with such frontage being not less than fifty feet (50') in width.

2. Identification and Designation. All reserves shall be labeled and identified on the plat, and a description of the use intended for such reserve, if known, shall be noted. If the use of the reserve is not restricted for any specific use, the reserve shall be identified and noted as being “unrestricted.” All reserves are to be identified and designated by alphabetical letters, not numbers, along with an indication as to the total acreage of such reserves that shall be shown within each reserve boundary.

M. Lots; General Provisions. The purpose of this Section is to provide general overall guidelines for the establishment of individual lots within a subdivision.

1. General Lot Design, Arrangement, and Layout. The general lot design within any subdivision shall be based upon the concept that such lots are created and established as undivided tracts of land and that purchasers of such lots can be assured that these tracts of land will be appropriate for their intended use, by meeting the following basic criteria:

a. the lot is of sufficient size and shape to accommodate easements for all public and private utility services and facilities to adequately serve any improvements constructed thereon;

b. the lot is of sufficient size and shape and is so located that direct vehicular access is provided from a public street or through an approved private street and that the required number of off-street parking spaces can be provided on the lot without encroachment within any adjacent public or private street right-of-way;

c. the lot is of sufficient size and shape to accommodate all required improvements and detention areas; and

d. the minimum single family residential lot size is 6,000 square feet.

2. Lot Shapes. Lots shall be designed, so far as possible, with side lot lines being at right angles or radial to any adjacent street right-of-way line. Where all lots are either perpendicular and at right angles or radial to adjacent street rights-of-way, a suitable notation shall be placed upon the plat in lieu of lot line bearings.

3. Key or Flag Shaped Lots. For the purposes hereof, a key or flag shaped lot shall mean a lot having gross disparities in width between side lot lines, sometimes resembling a flag on a flag pole, a key, or some other lot shape of comparable irregularity. Key or flag shaped lots shall be allowed if otherwise in compliance with the minimum lot size requirements of this and other applicable ordinances of the City and provided that any such lot is at least fifty feet (50') in width at its building set-back line.

4. Street Access Limitations. Rear and side vehicular driveway access from lots to adjacent streets designated as major thoroughfares or any other public street which carries a traffic volume where additional vehicular driveways would create a traffic

hazard or impede the flow of traffic, shall not be approved and such access restriction shall be noted directly upon the plat and adjacent to the lots in question.

5. Lot and Block Identification. All blocks established in any subdivision shall be designated by number with said numbers being consecutive within the whole subdivision plat. Lots established within said blocks shall also be numbered with said numbers being consecutive within the block. Lot numbering shall be cumulative throughout the subdivision if the numbering system continues from block to block in a uniform manner.

N. Utilities. Adequate provision for all utilities shall be provided to the entire subdivision. All distribution and service lines of electrical, telephone, television, and other wire-carrier type utilities shall be underground, except where above-ground placement is required by the public utility provider. Transformers, amplifiers, or similar devices associated with the underground lines shall be located upon the ground or below ground level. Where the underground placement of such facilities is not a standard practice of the utility involved, the subdivider or developer shall make arrangements with the applicable utility for payment of all costs associated with the non-standard installation. All utility installations shall comply with the standards as set out by each utility provider, or as are contained in the Fort Bend County design standards provided, however, when the City adopts its own utility installation standards, such as standards shall apply within the City limits.

O. Drainage. Drainage facilities shall be designed and constructed in accordance with the drainage standards adopted by the City Council.

P. Sanitary Sewer. Sanitary sewer facilities shall be designed and constructed in accordance with the applicable standards of the City's Water Authority, Fort Bend County, the State of Texas, or Municipal Utility District (MUD) regulations, where such service is provided

by a MUD, as appropriate. Each lot within a proposed subdivision shall be connected to a sanitary sewer system, or may have a septic tank system if properly permitted as required by state law. Any lot within three-hundred feet (300') of the City's sanitary sewer system, as it develops and expands, shall be required to tie-in to the system, and shall pay all applicable costs.

Q. Water. Facilities for the provision of potable water to all areas of the proposed subdivision shall be designed and constructed in accordance with the applicable standards of the City's Water Authority, Fort Bend County, a Municipal Utility District, or the State of Texas, as appropriate. Each lot within a proposed subdivision shall be connected to a potable water distribution system, provided however, that individual residential lots of one acre or more in size may be allowed to have private wells if properly permitted. Any lot within three-hundred feet (300') of the City's water system, as it expands, shall be required to tie-in to the system, and shall pay all applicable costs.

R. Monuments and Markers.

1. Iron rods, five-eighths inches (5/8") in diameter and three feet (3') long, shall be placed on all boundary corners, block corners, curve points, and angle points. A copper pin one-quarter inch (1/4") in diameter embedded three inches (3") in the monument shall be placed at the exact intersection point on the monument. The monuments shall be set at such an elevation that they will not be disturbed during construction, and the top of the monument shall not be less than twelve inches (12") below the finished ground level.

2. Lot markers shall be five-eighths inch (5/8") or greater reinforcing bar, twenty-four inches (24") long, or approved equal, and shall be placed at all lot corners flush with the ground, or below ground if necessary in order to avoid being disturbed.

3. Where no bench mark is established or can be found within three hundred feet (300') of the boundary of the subdivision, such bench mark shall be established to the latest edition of the U.S. Coast and Geodetic Survey datum. The bench mark shall be

established upon a permanent structure, or may be set as a monument and shall be readily accessible and identifiable on the ground.

Section 8. Additional Plans and Certificates.

A. Dedication Statements and Certificates. All dedication statements and certificates shall be made a part of the final plat drawing and shall include, but not be limited to, the statements, the general form and content of which are provided as examples in Appendix A of this Ordinance, which are incorporated herein and made a part for all purposes.

B. Developments within the corporate limits and in the extraterritorial jurisdiction not located in a municipal utility district shall comply with the following provisions:

1. Construction Plans. Construction plans and profile sheets for all subdivision improvements, public or private, shall be submitted with the Application for Final Plat Approval. All such plans and profile sheets shall be signed and sealed by a Texas Registered Professional Engineer. The approval of the final plat shall be contingent upon approval of construction plans by the Commission. Further, the approval of a final plat shall be contingent upon the construction of such improvements in accordance with such approved construction plans. Construction plans shall be submitted to each utility or regulatory agency in Fort Bend County, with copies to the City.

2. Inspection of Construction. The City Engineer, or his duly authorized representative, shall be required to fully inspect any and all phases of the construction of improvements for each subdivision. The subdivider, or his contractor, shall maintain regular contact with the City Engineer or his representative during construction of improvements. No sanitary sewer, water, or storm sewer pipe shall be covered, no flexible base material, subgrade material, or stabilization shall be applied to the street subgrade, and no concrete shall be poured or asphaltic surface applied to the base, without the written approval of the City Engineer, or his representative. The City Engineer, or his representative, may at any time cause any construction, installation, maintenance, or location of improvements to cease when, in his judgment, the requirements of this Ordinance or the standards and specifications as hereinbefore provided have been violated, and may require such reconstruction or other work as may be necessary to correct any such violation. The subdivider shall engage a Texas Registered Professional Engineer who shall be in "responsible charge" of all phases of the design and construction of the required public improvements.

3. Guarantee of Performance. No subdivision plat shall be filed of record with the County Clerk of Fort Bend County, Texas, and no building permit, or any water, sewer, plumbing, or electrical permit shall be issued by the City to the owner or any other person with the respect to any property in any subdivision until the earlier of:

a. Such time as the subdivider or developer of such subdivision has complied with all provisions of this Ordinance and such conditions of the Commission applicable to the final plat regarding installation of all required improvements and for which required improvements the subdivider or developer has received acceptance by City Council for the start of the one (1) year maintenance period as described in subsection 4 below; or

b. Such time as an escrow deposit sufficient to pay for one hundred twenty percent (120%) of the estimated cost of such improvements as determined by the City Engineer computed on a private commercial rate basis has been made with the City Secretary accompanied by an agreement by the subdivider or developer authorizing the City to make such improvements at prevailing private commercial rates or have the same made by a private contractor and pay for the same out of the escrow deposit, should the subdivider or developer fail or refuse to install the required improvements within the time stated in such written agreement. Such deposit may be used by the subdivider or developer as progress payments as the work progresses upon written certification by the City Engineer that work for which payment is sought has been completed and that sufficient funds remain in the escrow account to complete the work. Any and all funds remaining from any such escrow deposit upon completion of the work and acceptance thereof by City Council shall be promptly released by the City to the depositor; or

c. Such time as the subdivider or developer files a corporate surety bond with the City Secretary executed by a surety company licensed to do business in the State of Texas and acceptable to the City Council, in an amount equal to one hundred twenty percent (120%) of the cost of installation of all required improvements as determined by the City Engineer computed on a private commercial rate basis, guaranteeing the installation of such required improvements by the subdivider or developer within the time stated in the bond, which time shall be fixed by the Commission.

4. Maintenance of Dedicated Improvements. Approval of a plat shall not impose any duty upon the City concerning the maintenance of improvements of any dedicated parts indicated thereon until the City Council, after inspection and recommendation by the City Engineer, shall have accepted same by motion or resolution

expressing such acceptance. The subdivider or developer shall maintain all such improvements for a period of one (1) year following such acceptance by City Council; however, such one (1) year of required maintenance shall not begin until there has been filed with the City Secretary either a maintenance bond, executed by a surety company licensed to do business in the State of Texas and acceptable to the City Council, in an amount equal to one hundred percent (100%) of the cost of installation of such improvements, warranting that said improvements will render satisfactory operation for such one (1) year period, or a cash bond, in an amount equal to one hundred percent (100%) of the cost of installation of such improvements, likewise warranting that said improvements will render satisfactory operation for such one (1) year period.

C. Developments in the City's extraterritorial jurisdiction located within a municipal utility district shall comply with the following provisions:

1. Construction Plans. Construction plans and profile sheets ("Plans") for all subdivision improvements, public or private, shall be submitted with the Application for Final Plat Approval. All such Plans shall be signed and sealed by a Texas Registered Professional Engineer. A Texas Registered Professional Engineer shall provide a signed and sealed certificate that all such subdivision improvements meet the requirements of the City Design Standards. Upon receipt of such Plans and Certificate, no approval by the City Engineer, Commission, or City Council is required. Construction plans shall be submitted to each utility or regulatory agency in Fort Bend County, with copies of such transmittals to the City.

2. Periodic inspection during construction to confirm that the improvements are being constructed in compliance with the Plans shall be provided in accordance with Texas Commission on Environmental Quality requirements. Upon completion of construction of such improvements, an inspection shall be performed by Fort Bend County and/or the Texas Commission on Environmental Quality, as appropriate depending upon the type of improvement. A Texas Registered Professional Engineer shall certify that THE improvements were constructed in substantial compliance with the Plans.

3. Guarantee of Performance. No subdivision plat shall be filed of record with the County Clerk of Fort Bend County, Texas, with respect to any property in any subdivision until such time as the subdivider or developer of such subdivision has complied with all provisions of this Ordinance and such conditions of the Commission applicable to the final plat..

4. Maintenance of Dedicated Improvements. Approval of a plat shall not impose any duty upon the City concerning the maintenance of improvements within the municipal utility district.

Section 9. Penalty. Any person violating any provision of this Ordinance within the corporate limits and extraterritorial jurisdiction of the City of Fulshear, Texas, shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not exceeding two thousand dollars (\$2,000.00). Each day that such violation continues shall constitute a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this Ordinance.

Section 10. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 11. Repeal Clause. City of Fulshear, Texas, Ordinance No. 603, passed and approved the 15th day of August 1983 and Ordinance No. 03-906, passed and approved the 19th day of December 2003, are hereby repealed to the extent required to enforce this Ordinance after its effective date. All other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

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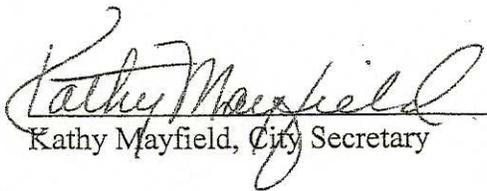
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PASSED, ADOPTED, AND APPROVED on first and final reading the 21 day of July 2004.



J. Michael Dinges, Mayor

ATTEST:



Kathy Mayfield, City Secretary

JOHN SMART -	AYE
J. B. COLLINS, JR. -	AYE
BILL ARCHER -	AYE
OWEN BEMENT -	AYE
COLICE WATTS -	AYE