

ORDINANCE NO. 80-2

AN ORDINANCE OF THE CITY OF DANBURY, TEXAS, CONTAINING A PREAMBLE; PROVIDING A SHORT TITLE; CONTAINING DEFINITIONS, RULES OF CONSTRUCTION AND PROCEDURE AND A SEVERANCE CLAUSE; MAKING FINDINGS OF FACT; SPECIFYING THE SCOPE OF THIS ORDINANCE; ADOPTING AND PROMULGATING GENERAL RULES AND REGULATIONS GOVERNING PLATS AND SUBDIVISIONS OF LAND FALLING WITHIN ITS JURISDICTION; PROVIDING FOR VARIANCES; PRESCRIBING FEES AND CHARGES; PROVIDING THAT IT SHALL BE A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED ONE HUNDRED (\$100.00) DOLLARS FOR ANY PERSON, ASSOCIATION OR CORPORATION TO SUBDIVIDE OR RESUBDIVIDE ANY TRACT OF LAND FALLING WITHIN THE JURISDICTION OF SAID CITY, OR TO GRANT, SELL OR CONVEY ANY TRACT OF LAND THEREIN SITUATED WHERE THE EFFECT THEREOF IS TO SUBDIVIDE OR RESUBDIVIDE SUCH TRACT, UNLESS AND UNTIL, IN EITHER CASE, A PLAT OF SAID SUBDIVISION OR RESUBDIVISION HAS BEEN APPROVED BY THE CITY COUNCIL OF SAID CITY AS HEREIN PROVIDED AND SUCH PLAT HAS BEEN RECORDED IN THE OFFICE OF THE COUNTY CLERK OF THE COUNTY WHEREIN SUCH LAND LIES, OR FOR ANY PERSON, ASSOCIATION OR CORPORATION TO CONSTRUCT, RE-CONSTRUCT, MAINTAIN OR IMPROVE ANY PUBLIC STREET THEREIN SITUATED WITHOUT THE PERMISSION OF THE CITY COUNCIL OF SAID CITY; PROVIDING EXCEPTIONS; PROVIDING THAT EACH DAY ANY SUCH VIOLATION CONTINUES OR OCCURS SHALL CONSTITUTE A SEPARATE OFFENSE; RESERVING ALL ADDITIONAL REMEDIES OF SAID CITY; PROVIDING AN EFFECTIVE DATE FOR THIS ORDINANCE; AND PROVIDING A METHOD OF PUBLICATION FOR THIS ORDINANCE.

WHEREAS, the City of Danbury, Texas, has been duly organized as a municipal corporation under the provisions of Chapter 11, Title 28, Revised Civil Statutes of Texas (1925), codified as Articles 1133, et seq., of said Statutes; and,

WHEREAS, Article 1145 of said Statutes provide that the City Council of such a municipal corporation shall have power to enact such ordinances as are not inconsistent with the laws and Constitution of the State of Texas as shall be deemed proper for the government of the corporation; and,

WHEREAS, Paragraph 2 of Article 1146 of said Statutes provides that such municipal corporation shall have and exercise exclusive control over the streets, alleys and other public places within the corporate limits thereof; and,

WHEREAS, Paragraph 10 of said Article 1146 provides that the City Council of such municipal corporation may do whatever else may be necessary to give effect to the provisions of Chapter 11 of said statutes; and,

WHEREAS, Section 4 of Article 974a of said Statutes authorizes a municipal corporation to adopt and promulgate, after a public hearing thereon, general rules and regulations governing plats and subdivisions of land situated within its corporate limits or within five (5) miles thereof in order to promote the health, safety, morals or general welfare of the community and the safe, orderly, and healthful development of said community; and,

WHEREAS, Section 5 of the Flood Control and Insurance Act of the State of Texas, codified as Article 8220-13 of said Statutes, authorizes municipal corporations to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program, including but not limited to certain land use and control measures therein specified.

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

SECTION ONE (1) - SHORT TITLE

This ordinance shall be known and may be cited as the "Subdivision Plat and Street Ordinance of the City of Danbury, Texas".

SECTION TWO (2) - DEFINITIONS, RULES OF CONSTRUCTION AND PROCEDURE AND SEVERANCE CLAUSE

(a) As used in this ordinance, the following words and phrases shall have the following meaning:

(1) "Easement" shall mean any easement or right of way, except streets as herein defined, which are dedicated to the use of the public or any private person, association or corporation, or reserved by or granted to the public or any private person, association or corporation by any instrument of writing duly recorded in the office of the County Clerk of Brazoria County, Texas.

(2) "Owner" means any person, association, or corporation (other than a lien holder not in possession) having title to or an interest in any real property.

(3) "Plat" shall mean a map or representation of a subdivision or resubdivision on paper or other suitable substance of a permanent nature.

(4) "Resubdivision" shall mean the division or transfer of ownership of any portion of an existing subdivision, or any change in lot or area size therein, or the relocation of any street or easement lying therein, and includes the replatting of an existing subdivision, or the original town-site plat, whether such division is by reference to lots and/or blocks on a plat, whether recorded or unrecorded, or by reference to metes and bounds. or both such references, and whether or not a subdivision plat has been previously approved by City Council.

(5) "Street" shall mean the entire width between the boundary lines of every highway, road, street, alley or other way opened to the use of the public for purposes of vehicular travel.

(6) "Subdivision" shall mean the division of any parcel of land into two or more lots or parcels or other division of land, for the purpose, whether immediate or in the future, of the transfer of ownership or building development, or both, whether such division is by reference to lots and/or blocks on a plat, whether recorded or unrecorded, or by reference to metes and bounds or by both such references.

(7) "To resubdivide" shall mean the act of dividing a tract or parcel of land in such a manner that a resubdivision results therefrom.

(8) "To subdivide" shall mean the act of dividing a tract or parcel of land in such a manner that a subdivision results therefrom.

(b) In the construction of this ordinance, the singular number shall include the plural number, the plural number shall include the singular number, the masculine gender shall include the feminine and neuter genders, the use of a word in one tense shall, where logical and reasonable

in the context in which such word is used, be construed to include such word in any of its other tenses and all words and phrases not specifically defined in Subsection (a) of this section shall be given their usual and customary meaning.

(c) In any prosecution hereunder in the Municipal Court of the City of Danbury, Texas, or any other court of competent jurisdiction, the complaint charging a violation of this ordinance need not negative the existence of any exception contained herein but the existence of the same may be raised by the defendant in such prosecution by way of defense.

(d) In any prosecution hereunder in the Municipal Court of the City of Danbury, Texas, or any other court of competent jurisdiction, proof that any tract of land, the description of which is alleged in the complaint on which such prosecution is based, is listed as being owned by any person, association or corporation on the current tax roll of Brazoria County, Texas, shall be prima facie evidence that such land is owned by such person, association or corporation. Provided, however, the prima facie proof herein provided for may be rebutted by the defendant against whom such proof is offered in any such prosecution.

(e) In the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

#### SECTION THREE (3) - FINDINGS OF FACT

The City Council of the City of Danbury, Texas, makes the following findings of fact with respect to the adoption of this ordinance.

(a) That prior to the adoption of this ordinance, a public hearing was held by said City Council in relation thereto at which all parties in interest and all citizens, their agents or attorneys, who were present were given an opportunity to be heard. (Art. 970a, Sec. 6; Art. 974a, Sec. 4; T.R.C.S.)

(b) That no newspaper is published within the incorporated limits of the City of Danbury, Texas.

(c) That public notice of the time and place of such public hearing was published not less than 10 days nor more than 20 days prior thereto in the Angleton Times, a daily newspaper published in Brazoria county, Texas, which is a newspaper of general circulation within the incorporated limits of the City of Danbury, Texas.

(d) That based upon the evidence adduced at such public hearing, said Council finds that the adoption of this ordinance is necessary to promote the health, safety, morals and general welfare of the community in and surrounding said City over which it has jurisdiction and the safe, orderly and healthful development of said community. (Art. 974a, Sec. 4, T.R.C.S.)

(e) That based upon the evidence adduced at such public hearing, said Council finds that the provisions of this ordinance are reasonable municipal actions which are necessary to comply with the requirements of the National Flood Insurance Program.

#### SECTION FOUR (4) - SCOPE OF ORDINANCE

(a) This ordinance is adopted pursuant to the authority of Articles 970A, 974a (Section 4), 1145, 1146 (Paragraphs 2 and 10) and 8280-13 (Section 5), all in the Revised Civil Statutes of Texas (1925) and it is intended to apply to all land within the incorporated limits of the City of Danbury, Texas, the extraterritorial jurisdiction of the City as prescribed by Article 970a, and within five miles thereof to the extent that such land falls within the jurisdiction of said City under the Provisions of any of said Statutes.

(b) Extension of subdivision ordinance within the extraterritorial jurisdiction

The City Council of the City of Danbury, Texas, hereby extends to all of the area under its extraterritorial jurisdiction the application of this ordinance establishing rules and regulations governing plats and the subdivision of land; provided, that any violation of any provision of any such ordinance outside the corporate limits of the city, but within such city's extraterritorial jurisdiction, shall not constitute a misdemeanor under this ordinance nor shall any fine provided for in this ordinance be applicable to a violation within such extraterritorial jurisdiction.

However, the City of Danbury, Texas shall have the right to institute an action in the district court to enjoin the violation of any provision of this ordinance in such extraterritorial jurisdiction. (Art. 970a, Sec. 4, T.R.C.S.)

(c) Adjoining Inhabitants

When a majority of the inhabitants qualified to vote for members of the State legislature of any territory adjoining the limits of the City of Danbury, Texas, to the extent of one-half mile in width, shall vote in favor of becoming a part of said city, any three of them may make affidavit to the fact to be filed before the Mayor, who shall certify the same to the City council of said city. The said City Council may, by ordinance, receive them as part of said city; from thenceforth the territory so received shall be a part of said city; and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bound by the acts and ordinances of said city. (Art. 974, T.R.C.S.)

(d) Petition For Annexation

The owner or owners of any land or territory, to the extent of one-half ( $\frac{1}{2}$ ) mile in width, which is vacant and without residents, or on which less than three (3) qualified voters reside, contiguous and adjacent to the City of Danbury, Texas, may by petition in writing to the City Council of the City of Danbury, request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds, said petition to be duly acknowledged as required for deeds by each and every person or corporation having an interest in said land. The City Council shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as the City Council may see fit. If the City Council shall grant such petition, the City Council by proper ordinance may receive and annex such territory as a part of such city. Thereafter the territory so received and annexed shall become a part of the City of Danbury, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of the City of Danbury, and

shall be bound by the acts and ordinances of such city. If such petition shall be granted and the ordinance thereinabove mentioned adopted by the City Council, a certified copy of such ordinance together with a copy or a duplicate of such petition shall be filed in the office of the County Clerk of Brazoria County, Texas. (Art. 974g, T.R.C.S.)

SECTION FIVE (5) - GENERAL RULES AND REGULATIONS GOVERNING PLATS AND SUBDIVISION OF LAND

(a) Plats Required

Every owner of any tract of land situated within the corporate limits, or within five miles of the corporate limits of the City of Danbury, Texas, who may hereafter divide the same in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to the city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto; provided, however, that no plat of any subdivision of any tract of land or any addition to the City shall be recorded unless the same shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto. (Art. 974a, Sec. 1, T.R.C.S.)

(b) Acknowledgment of Plats

Every such plat shall be duly acknowledged by owners or proprietors of the land, or by some duly authorized agent of said owners or proprietors, in the manner required for the acknowledgment of deeds. (Art. 974a, Sec. 2, T.R.C.S.)

(c) Contents of Plat

Every proposed plan, plat, or replat submitted for approval and acceptance shall show thereon the following:

- (1) The name of the proposed subdivision or resubdivision.
- (2) North point, scale (which must be one hundred feet equals one inch or greater), and date of preparation.
- (3) The names and addresses of the owners and subdividers.
- (4) A depiction of the boundary lines of the subdivision or resubdivision with accurate distances and bearings in metes and bounds.
- (5) A statement of the total acreage included within the proposed subdivision or resubdivision.
- (6) The name, certificate and seal of the registered professional engineer or licensed land surveyor who prepared and is responsible for the plat.
- (7) The name of all streets and the classification as to type of all easements, the boundary lines of all streets and easements, together with accurate distances and bearings and the exact location and width thereof. All streets shall not be less than sixty (60) feet in width.
- (8) True bearings and distances to the nearest corner of the original survey of land in Brazoria County, Texas, of which the tract being subdivided or resubdivided is a part.
- (9) True bearings and distances to the beginning point of the corporate limits of the City as reflected on the most recent survey of the City townsite.
- (10) The names of adjacent existing subdivisions or resubdivisions and the names and resident addresses of the record owners of all unsubdivided land adjacent to the proposed subdivision or resubdivision.
- (11) At some point thereon, a small key map showing the location of the proposed subdivision or resubdivision with reference to the corporate limits of the City as shown on the most recent survey of the City townsite.
- (12) All lot and block numbers, or other designations thereof and all boundary lines of lots and blocks with accurate dimensions in feet and with bearings and angles of street line. All lots must be at least seventy (70) feet in width and contain a minimum of nine thousand (9,000) square feet.
- (13) Setback building lines required by this ordinance and any additional building lines contained in the restrictive covenants which have been or will be recorded.
- (14) Location of existing sewer, water and gas mains and other public utilities.
- (15) The length of all arcs, radii, internal angles, points of curvature, length of bearing of the tangents and contours with intervals of five-tenths (0.5) feet or less, referred to sea level datum, if required.
- (16) All parts or parcels of the proposed subdivision or resubdivision which have been or will be dedicated to the use of the public or reserved to the use of the property owners of the proposed subdivision or resubdivision.

- (17) Certificate of approval for execution by the Mayor and a majority of the councilmen comprising the City Council.
- (18) Such other matters as alleys and easements as may reasonably be required by the Council for the enforcement of this ordinance.
- (19) All grades, streets and slabs shown shall be referred to mean sea level.

(b) Data To Accompany Plat

Any proposed plat of a proposed subdivision or resubdivision filed pursuant to the provisions of this ordinance shall, unless the same appears on the fact thereof, be accompanied by the following data:

- (1) If the proposed plat constitutes a resubdivision, a copy of the plat of the subdivision being resubdivided.
- (2) Certificate of a registered professional engineer, licensed to do business in the State of Texas, to which his signature, professional title, license number and seal are affixed, stating that he has examined the proposed plat and compared it on the ground with the proposed subdivision or resubdivision and that he certifies that in such proposed subdivision or resubdivision the lots, blocks, streets and easements shown thereon have been laid out and in fact exist on the ground as shown on such proposed plat; that all of the streets therein have been built to and, as of the date of such certificate, satisfy the minimum street specifications set forth in Exhibit "A" attached hereto and made a part of this ordinance, as modified by subsection (h) of this section; and that all water mains and sanitary sewer lines necessary to provide service from the then existing water mains and sanitary sewer lines of the City to every lot in any such subdivision or resubdivision have been installed to and, as of the date of such certificate, are adequate to provide such services without any additional expense on the part of the City. The plans and specifications of the water and sewer system submitted may be required to be approved by the City Engineer. In lieu of the requirements of such certificate with respect to the construction of the streets in such subdivision or the installation of water mains and sanitary sewer lines therein, or both such requirements, the City Council of said City may permit the person requesting approval of the plat of such subdivision or resubdivision to furnish an acceptance bond in an amount and with a corporate surety to be approved by said City Council conditioned that the owner of such subdivision or resubdivision will, prior to selling any lot therein, build or cause all of the streets therein to be built in such a manner as to satisfy such specifications or will install or cause water mains and sanitary sewer lines to be installed therein connecting every lot therein with the then existing water mains and sanitary sewer lines of the City which are adequate to permit water and sanitary sewer service to be supplied to each such lot without additional expense on the part of the City, as the case may be.

- (3) Certificate of ownership and dedication of all streets, parks, playgrounds, and other public areas to the public use forever, executed by all persons owning an interest in the property being subdivided or resubdivided, signed and acknowledged in the manner prescribed by the laws of the State of Texas for conveyances of real property.
- (4) Certificate of ownership of any lienholders of any liens against the property being subdivided or resubdivided, subordinating their liens to all public streets, parks, playgrounds, and other public areas shown on the proposed plat, any data accompanying the same, to be dedicated for public use and purpose, signed and acknowledged in the manner prescribed by the laws of the State of Texas for conveyances of real property.
- (5) A letter addressed to the Danbury City Council, giving an outline of the proposed street improvement and proposed public utilities. These must have the approval of the designated City Engineer before the final plat will be accepted.
- (6) Proposed general plans for drainage; the City Council may require a contour map showing contour intervals of not less than two feet. Profiles of proposed streets and alleys may be called for. All grades shall be referred to mean sea level.
- (7) Waiver of claim for damages occasioned by the establishment of grades or alterations of the surface of any portion of the streets in the proposed subdivision or resubdivision, signed and acknowledged in the manner prescribed by the laws of the State of Texas for conveyances of real property.
- (8) Restrictive covenants, which are then or which shall be placed of record, signed and acknowledged in the manner prescribed by the State of Texas for conveyances of real property. If such covenants are already recorded but additional restrictions are intended to be recorded, both documents shall accompany the proposed plat. The restriction must include a setback building line of at least twenty-five (25) feet from any lot line which is contiguous to the right-of-way line of any street, a prohibition against the foundation of any improvement being closer than ten (10) feet or the eaves of the roof of any improvement being closer than seven and one-half ( $7\frac{1}{2}$ ) feet to any other lot line and, in the case of residential lots, a requirement of only one (1) single-family dwelling per lot. Further, the restriction must designate which lots shall be available for use only for residential purposes and which lots may be used for commercial purposes. As used in this paragraph the phrase "used for commercial purposes" means used for any purpose other than wholly residential purposes. (Art. 1011j, T.R.C.S.)
- (9) Certificate showing that all ad valorem taxes due the State of Texas or any political subdivision thereof in which the proposed subdivision or resubdivision is situated have been paid, that there are no delinquent taxes against such property and setting out any assessments or other such lawful charges against such property or, if there be none, then so stating.
- (10) Eight (8) true copies or prints of the plat, or more if requested, suitable for reproduction, with copies of the other data required by this section attached to each.
- (11) Certificate of ownership and approval from owners of all easements which are or which will be located on or under the ground and which is or will be crossed by any other easement or any street within the proposed subdivision or resubdivision, signed and acknowledged in the manner

prescribed by the laws of the State of Texas for conveyances of real property.

- (12) Such other data as may be reasonably required by the Danbury City Council for the enforcement of this ordinance or for clarification.

(c) Procedure For Approval

Any person, association or corporation desiring to have approved a plat of a subdivision or resubdivision of land located within the corporate limits of the City of Danbury, Texas, or within five miles thereof, shall apply therefor to and file the original and eight (8) true copies or prints of such plat, suitable for reproduction, with copies of the other data required by Subsection (b) of this Section to accompany the same, with the Secretary of said City and shall at the time of filing tender to the Secretary the required fee specified in Subsection (i) of this Section. The Secretary shall distribute one (1) copy of such plat and data to the Mayor and each of the Councilmen of said City and shall place the consideration of the same on the agenda of a regular or any special meeting of the City Council which will occur within thirty (30) days from said filing date. 'If said plat be not disapproved within thirty (30) days from said filing date, it shall be deemed to have been approved by the City Council. A certificate showing the filing dates hereunder and the failure to take action thereon within the period herein prescribed shall on demand be issued by the Secretary and said certificate shall be sufficient in lieu of the written endorsement or other evidence of approval by the City Council herein required. If the plat is approved, the City Council shall indicate such finding by certificate endorsed thereon, signed by the Mayor and the majority of the members of the City Council. The Secretary shall keep a record of such applications and the action taken thereon and upon demand of the owners of any land affected shall certify the reasons why the City Council rejected any such application.' (Art. 974a, Sec. 3, T.R.C.S.)

(d) Action By City Council

- (1) 'If such plan, plat or replat submitted to the Danbury City Council for approval shall conform to the general plan of said City and its streets, alleys, parks,

playgrounds and public utility facilities, including those which have been or may be laid out, and to the general plan for the extension of said City and of its roads, streets and public highways within said city and within five miles of the corporate limits thereof, regard being had for access to and extension of sewer and water mains and the instrumentalities of public utilities; if such plat and accompanying data indicates that the subdivision or resubdivision depicted thereon, including its utilities and drainage, is located and designed to be consistent with the need to minimize flood damage and to avoid impairment of the water and sewer system of said City; and if such plat shall conform to the other requirements of this ordinance for which a variance is not granted by the City Council as hereinafter provided, then it shall be the duty of the City Council to endorse approval upon such plan, plat or replat. (Art. 974a, Sec. 4, T.R.C.S.)

(2) Bench mark elevations will be established on the ground on at least one block corner of each street intersection and in no event more than 700 feet from any other bench mark. These elevations shall be clearly shown on the plat.

(e) Approval Of Plat Not Acceptance of Dedication.

The approval of any such plan, plat or replat submitted to the City Council of the City of Danbury, Texas, pursuant to the provisions of this ordinance shall not be deemed an acceptance of any proposed dedication and shall not impose any duty upon such City concerning the maintenance or improvement of any such dedicated parts until the City Council of said City shall have made actual appropriation of the same by entry, use or improvement. (Art. 974a, Sec. 6 T.R.C.S.)

(f) Vacation Of Plats.

Any owners of any land covered by any plat within the corporate limits of the City of Danbury, Texas, or within five miles thereof over which such City has jurisdiction, may apply for permission to vacate such plat upon filing an affidavit, subscribed and sworn to

before some officer authorized to administer oaths by the laws of the State of Texas, establishing the fact that no lot or lots in any subdivision or resubdivision depicted by such plat have been sold. When such application and affidavit and the required filing fee specified in subsection (i) of this Section have been delivered to the Secretary of said city, the approval of the vacation of such plat shall be placed on the agenda for the next regular or any special meeting of the City Council of said City. At such meeting, a hearing shall be conducted and, unless the contents of such affidavit are rebutted, they shall be taken as true and at the conclusion of such hearing approval to the vacation of such plat shall be granted by the City Council and the Mayor and a majority of the Council shall affix their signatures to any certificate certifying thereto presented by the owner of such land.

(g) Variances

Whenever the City Council of the City of Danbury, Texas, by a majority vote of the City Council present and voting at a regular or special meeting thereof finds that extraordinary hardship may result from requiring any person, association or corporation to strictly comply with the provisions of this ordinance which are not required by Article 974a, Revised Civil Statutes of Texas (1925), and such finding is entered upon the minutes of such meeting, the Council may by such majority vote of the City Councilmen present and voting at such meeting vary such provisions so that substantial justice may be done and the public interest secured. Provided, however, a reasonable description of the variation or variations so granted sufficient to permit the identification thereof must then be entered in the minutes of such meeting but no variance shall ever be granted which will have the effect of nullifying the intent and purpose of this ordinance.

(h) Minimum Specifications For Streets

From and after the effective date of this ordinance, all public streets constructed or reconstructed within the corporate limits of the City of Danbury, Texas, or within one-half ( $\frac{1}{2}$ ) mile thereof, shall meet the minimum specifications for subdivision roads and streets to be taken into the Brazoria County Road system for maintenance, a copy of which marked Exhibit "A" and attached hereto, is hereby made a part hereof

for all purposes as if set forth in full at this point in the ordinance. Provided, however, in any new subdivision or resubdivision of any of the lots of which are to be available for use for commercial purposes, "use for commercial purposes" meaning used for any purpose other than wholly residential single family dwelling purposes, in lieu of the surfacing material specified on said Exhibit "A", the surface of such streets shall be reinforced concrete having a minimum thickness of six (6) inches. Provided further, the surface of any street constructed within the corporate limits of the City of Danbury, Texas, or within one-half ( $\frac{1}{2}$ ) mile thereof, which is not constructed with reinforced concrete having a minimum thickness of six (6) inches, shall be finished with a two (2) coat surface treatment applied in accordance with the Texas Highway Department's Standard Specifications, latest edition. Provided further, that the sub-base of any street constructed within the corporate limits of the City of Danbury, Texas, or within one-half ( $\frac{1}{2}$ ) mile thereof, shall have a lime subgrade stabilization according to the following specifications, to-wit:

- (1) Lime shall be a standard brand of hydrated lime conforming to the following:
  - (a) Physical Requirements. Lime shall be of such gradation that 99 $\frac{1}{2}$  percent passes a No. 20 sieve and a minimum of 85 percent passes a No. 100 sieve.
  - (b) Chemical Requirements. The combined calcium oxide and magnesium oxide shall be not less than 70 percent.
- (2) Soil. The soil shall consist of existing embankment material in the area to be stabilized. Stones retained on a 3 inch sieve and deleterious substances such as sticks, debris, and vegetable matter shall be removed.
- (3) Water shall be clean, fresh and free from injurious amounts of oil, acid, salt, alkali, organic matter or other substances deleterious to the lime or lime-soil mixture and shall be subject to approval.
- (4) Rate of Lime Application. The lime shall be applied at the rate of 27 pounds per square yard of subgrade to be stabilized. The optimum moisture content of the raw soil and the soil lime mixture will be determined by the Contractor using samples from the subgrade area as required by Item (5).
- (5) Sampling, Testing and Approval.
  - (a) Samples for testing shall be furnished by the Contractor at no cost to the City. Samples for determining the optimum moisture content and the specified degree of compaction shall be representative of the lime-soil mixtures obtained from the area being processed.

Samples of the lime shall be taken in conformance with ASTM Standard C 50.

(b) Tests will be performed by the Contractor at no cost to the City.

(c) Lime. Sieve analysis will be made on sieves conforming to ASTM Standard E 11. Lime will be tested for the specified chemical requirements in accordance with ASTM Standard C 25. Certified test reports on samples of the lime to be used shall be furnished. This report shall include the results of tests for the physical and chemical requirements in accordance with Item (1).

(d) Approval of materials will be based on tests of samples for the specific job.

(6) Equipment. Any combination of equipment, plant, machines, or tools may be used that will produce soil-lime stabilization conforming to these specifications. Sufficient equipment shall be provided to perform the work continuously. Equipment, plant, machines, and tools used in the performance of the work covered by this section shall be approved prior to commencement of work and shall be maintained in a satisfactory working condition at all times. Protective equipment, apparel, and barriers shall be provided to protect the eyes, respiratory system, and skin of workers exposed to contact with lime dust or slurry. The contracting officer shall have access at any time to all parts of the plant for the purpose of checking the adequacy of the equipment in use, inspecting the operation of the plant, verifying the weights, proportions, and character of the materials.

(7) Weather Limitations. No lime shall be applied except if the air temperature is at least 40 degrees F. in the shade and is rising. No lime shall be applied to soils that are frozen or contain frost. If the air temperature falls below 34 degrees F. in the shade, completed lime-treated areas shall be protected by approved methods against any detrimental effects of freezing. The uncompacted soil-lime mixture, if wet by rain so that the average moisture content at the time of compaction is too high to obtain the specified density, shall be dried by aeration or other approved methods until the density can be obtained. If the uncompacted lime-soil mixture is too dry for compaction to the specified density, water shall be added as required but not to exceed optimum moisture content by more than 2 percentage points. Any portion of the completed soil-lime treated areas damaged by freezing shall be completely removed and replaced with new soil-lime material in accordance with this specification at no cost to the City.

(8) Drainage. Adequate drainage shall be provided during the entire period of construction to prevent water from collecting or standing on the area to be stabilized or on the pulverized, mixed or partially mixed material.

(9) Preparation Of Area To Be Stabilized. The area shall be cleaned of debris. The area will be inspected by the contracting officer for adequate compaction and shall be capable of withstanding without displacement the compaction specified for the soil-lime mixture.

(a) In-Place Material to be Stabilized. The embankment shall be graded and shaped to conform to the approximate lines, grades, and cross section prior to being processed. Soft or yielding subgrade areas shall be made stable as directed before scarification is begun.

(b) Preliminary Scarifying and Pulverizing of Soil. Prior to the application of lime, the soil shall be scarified and pulverized as necessary to a sufficient width and depth to obtain a uniform mixture of soil, lime and water and to form a compacted lime-treated course conforming to the cross section indicated. Scarification shall be carefully controlled so that the subgrade beneath the layer to be treated is not disturbed. After being scarified, the loosened soil shall be pulverized, with care being taken to insure that the depth of pulverizing does not exceed the depth of scarification.

(c) Application of Lime. The pulverized material shall be shaped to approximately the cross section indicated. Lime shall be applied to the soil in such a manner that when uniformly mixed with the soil, a sufficient quantity of lime-treated soil is produced to construct a compacted lime-treated course conforming to the lines, grades, and cross-section indicated. If dry lime is used, the lime shall be applied in bulk, in a slurry, or from bags. Mechanical spreaders shall be used in applying the bulk lime. Distributors shall be used in applying slurry. If the lime is spread by hand, the bags shall be potted accurately on the area being stabilized so that when the bags are opened the lime will be dumped and spread uniformly on the area being processed. No equipment except that used in spreading and mixing shall be allowed to pass over the freshly spread lime or slurry.

(d) Initial Mixing. Immediately after the lime has been distributed, the lime and soil shall be mixed. Complete and thorough mixing is not necessary, but the initial mixing shall be sufficient to alleviate any dusting or wetting of the lime that might occur in the event of wind or rainstorms. The preliminary mixing will continue until all clay is broken down to pass the 2-inch sieve. After preliminary mixing the soil-lime mixture shall be sealed by light compaction with a rubber-tired roller. A curing period of at least 72 hours shall be allowed before final mixing. Additional water may be required during the curing period to maintain optimum moisture content.

(e) Water Application and Final Mixing. After completion of initial mixing and in preparation for final mixing prior to compaction, the moisture content of the mixture will be determined. Water, if required, shall be uniformly applied at the rate directed. An adequate supply of water and pressure-distributing equipment shall be provided to permit the continuous application of the water required. Water may be added in increments as large as the equipment will permit; however, each increment of water shall be partially incorporated in the mix to avoid concentration of water near the surface. After the last increment of water has been added, mixing shall be continued until the water is uniformly distributed throughout the full depth of the mixture. Particular care shall be taken to insure satisfactory moisture distribution along the edges of the section.

- (10) Layer Thickness. When a compacted layer of 6 inches is specified, the material may be placed in single layer; when a compacted thickness of more than 6 inches is required no layer shall be in excess of 6 inches nor less than 3 inches when compacted.
- (11) Rolling And Finishing. Prior to compacting, the mixture shall be pulverized so that 60 percent of the soil, by dry weight, exclusive of plus No. 4 gravel or stone, will pass a No. 4 sieve. The loose material shall then be uniformly and continuously compacted to the density specified hereinafter by tamping type rollers or rubber-tired rollers, depending on type of soil. If the moisture content is below the optimum, additional water shall be added as directed.
- (a) Compaction. The lime-soil mixture shall be compacted to a density not less than 90% maximum density obtained at optimum moisture content as determined by the Contractor on the lime-soil mixture in accordance with EM 1110-2-1906, Appendix VI, Modified Compaction Test. This compaction shall be done with approved tamping, pneumatic tired, or other approved rollers and followed immediately with fine grading or shaping by a grader.
- (b) Curing and Protection. From 5 to 7 days will be required for final curing. During this time the surface will be sprinkled to maintain optimum moisture content. No traffic will be allowed during this time except a small water truck or light vehicular traffic.
- (c) Smoothness Test. The surface of lime stabilized subgrade shall not show any deviations in excess of 1/4 inch when tested with a 10-foot straightedge applied both parallel and at right angles with the centerline of the area to be paved. Any deviation in excess of this amount shall be corrected by the Contractor by removing material, replacing with the new material or reworking existing material and compacting, as directed.
- (12) Sampling And Testing. The Contractor shall be responsible for all sampling and testing. The City will as it deems necessary, take samples and make check tests without cost to the Contractor. Lime will be accepted on the basis of certified test report. Sieve analysis will be made on sieves conforming to ASTM Standard E 11. Lime will be tested for the specified chemical requirement in accordance with ASTM Standard C 25. The Contractor shall perform minimum tests according to the following schedule:
- (a) Lime Subgrade Stabilization Density. The Contractor will prepare a moisture density curve for each type of material being stabilized. Samples for determining the optimum moisture content and the specified degree of compaction shall be representative of the lime-soil mixture obtained from the area being processed. Sampling and testing shall be performed in accordance with applicable requirements of this section. Density tests shall be taken at the rate of one test for each 1,000 square yards of subgrade material stabilized and compacted.
- (i) Fees And Charges
- (1) The following schedule of fees and charges shall be paid to the Secretary of the City at the time of the filing of a proposed plat or any proposed subdivision or re-subdivision:

- (1) Plat Fee - \$25.00 for each original plat filed.
  - (ii) Per Lot Fee - If the proposed subdivision or resubdivision is divided into lots and blocks, an additional fee of \$2.00 per lot shall be paid.
  - (iii) Acreage Fee - If the proposed subdivision or resubdivision is not divided into lots and blocks, an additional fee of \$5.00 per acre or fraction thereof shall be paid.
- (2) Any person filing an application seeking to have the City Council approve the vacating of any subdivision or resubdivision shall pay to the Secretary of the City a fee of \$10.00 at the time of filing the same.
  - (3) These fees shall be charged on all lots, regardless of the action taken by the City Council and whether the plat is approved or denied.

SECTION SIX (6) - PROHIBITED ACTS; EXCEPTIONS; PENALTY AND CONTINUING OFFENSES

(a) From and after the effective date of this ordinance, it shall be unlawful for any person, association or corporation to subdivide or resubdivide any tract of land within the incorporated limits of the City of Danbury, Texas, or within five miles thereof, unless and until a plat of said subdivision or resubdivision has been approved by the City Council of said City in the manner herein provided and said plat has been filed for record and been recorded in the office of the County Clerk of Brazoria County, Texas.

(b) From and after the effective date of this ordinance, it shall be unlawful for any person, association or corporation to grant, sell or convey any tract of land therein situated where the effect thereof is to subdivide or resubdivide such tract unless and until a plat of said tract has been approved by the City Council of said City as herein provided and such plat has been filed for record and been recorded in the office of the County Clerk of Brazoria County, Texas.

(c) From and after the effective date of this ordinance, it shall be unlawful for any person, association or corporation to construct, reconstruct, maintain or improve any public street situated within the incorporated limits of the City of Danbury, Texas, without prior approval by the City Council of said City.

(d) It is an exception to the application of Subsections (a) and (b) of this Section if by law the City of Danbury, Texas, does not have

jurisdiction over the tract of land in question at the time the offense is committed.

✓(d) It is an exception to the application of Subsection (c) of this Section if the person, association or corporation constructing, reconstructing, maintaining or improving such street is an employee of Brazoria County or the Texas Department of Highways and Public Transportation or is an independent contractor having a contract with such county or department and, in either case, such street is under the jurisdiction of and such county or department has authorized such construction, maintenance or improvement.

(f) Any person, association or corporation committing an act made unlawful by this Section shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine not to exceed One Hundred Dollars (\$100.00). Each day any such violation continues or occurs shall constitute a separate offense. (Art. 1011h, T.R.C.S.)

#### SECTION SEVEN (7) - ADDITIONAL REMEDIES OF CITY PRESERVED

In addition to filing a complaint against any person, association or corporation for a violation of all or any portion of the provisions of Section Six of this ordinance, the City of Danbury, Texas, hereby expressly reserves the right and shall have the right to file a civil action in any court of competent jurisdiction under the laws of the State of Texas seeking to have any acts of any person, association or corporation which are contrary to any provisions of this ordinance prohibited or corrected by writ of injunction, or seeking to recover damages therefor, or both.

#### SECTION EIGHT (8) - EFFECTIVE DATE OF THIS ORDINANCE.

This ordinance shall become effective from and after the date of the completion of its publication as provided in Section Nine of this ordinance.

#### SECTION NINE (9) - METHOD OF PUBLICATION

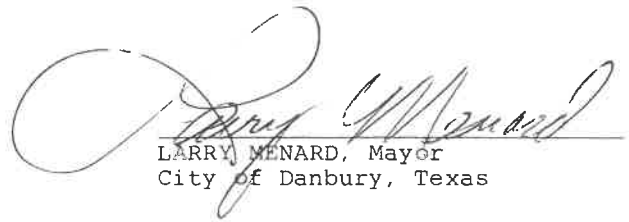
This ordinance shall, prior to the passage thereof, be published by posting the same for ten (10) days in three public places within the corporate limits of the City of Danbury, Texas, and subsequent to the passage thereof, a descriptive caption or title shall be published stating in summary the purpose of the ordinance and the penalty for violation

thereof, for ten (10) consecutive days in the official newspaper of the City of Danbury, Texas, the Angleton Times newspaper. (Art. 1013, 1152; T.R.C.S) (Art. 1025, T.R.C.S)

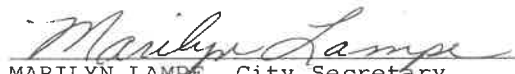
READ IN FULL, PASSED AND APPROVED this 22nd day of May, 1980

CAPTION READ, PUBLIC HEARING HELD, PASSED AND APPROVED this 24th day of July, 1980.

CAPTION READ, PUBLIC HEARING HELD, PASSED AND APPROVED this 28<sup>th</sup> day of August, 1980.

  
LARRY MENARD, Mayor  
City of Danbury, Texas

ATTEST:

  
MARILYN LAMPE, City Secretary  
City of Danbury, Texas

I hereby certify that a copy of the foregoing ordinance was posted by me at each of the three (3) following public places within the incorporated limits of the City of Danbury, Texas, on the 7<sup>th</sup> day of August, 1980.

(1) City Hall

(2) Post Office

(3) Danbury State Bank

Orville Hattorn  
ORVILLE HATTORN, Chief of Police  
City of Danbury, Texas