

ORDINANCE NO. 379

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POTEET, TEXAS, REGULATING, CONTROLLING AND GOVERNING THE SUBDIVISION OF LAND AND THE PLATTING AND DEVELOPMENT OF SUBDIVISIONS AND ADDITIONS TO THE CITY AND ITS EXTRATERRITORIAL JURISDICTION; PROMOTING THE HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY; PRESCRIBING REQUIREMENTS; REPEALING ORDINANCES IN CONFLICT; PROVIDING FOR FILING PROCEDURES; PROVIDING PENALTIES FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

**SECTION 1: AUTHORITY**

This Ordinance is adopted under the authority of the Constitution and laws of the State of Texas, including Sections 212.001 to 212.018 of the Texas Local Government Code, the Provisions of Section 42.021 of the Texas Local Government Code, and Article III, Section 1 of the City of Poteet City Charter.

**SECTION 2: PURPOSE**

The City Council of the City of Poteet does hereby adopt the following regulations to hereafter control the subdivision of land within the corporate limits of the City of Poteet and within the extraterritorial jurisdiction thereof, in order to provide for the safe, orderly and healthful development of the community and to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewage, and other public facilities. Such purpose is to be promoted by provisions designed to:

- A. Restrict or prohibit subdivision of lands for uses which are dangerous to health, safety or property in times of flood or which, with anticipated improvements, will cause excessive increases in flood heights or velocities.
- B. Protect individuals from buying lands, which are unsuited for intended purposes because of flood hazards by prohibiting the subdivision of unprotected flood hazard lands, requiring that flood hazard areas be delineated on the final plat, areas not suitable for development be subject to deed restrictions.
- C. Guide and assist the developers in correct procedures to be followed and to inform them of the general standards, which shall be required.
- D. Protect the public interest by controlling the location, design, class and type of streets, drainage, sidewalks, utilities and essential services required.
- E. Provide for the public welfare those essential areas required for educational, recreational, industrial, and commercial purposes.

**SECTION 3: INTERPRETATION AND CONFLICT WITH OTHER ORDINANCES**

In the interpretation and application, the provisions of this Ordinance shall be deemed to be minimal in nature and whenever principals or requirements of any other applicable revisions of the Ordinances of the City of Poteet, Atascosa County, Texas are higher or more restrictive, the later shall control.

**SECTION 4: ADOPTION OF LEGISLATIVE GRANT OF POWER**

Sections 212.001 thru 212.018 of the Texas Local Government Code and any amendments thereto are hereby adopted. Adoption of this Ordinance grants the City of Poteet, Texas those powers contained in the designated Sections of the Local Government Code and in accordance with the provisions of Article III of the Charter of the City of Poteet, Texas and any amendments thereto.

**SECTION 5: DEFINITIONS**

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning ascribed to them in this section:

- A. ALLEY: A minor public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a public street.
- B. BLOCK: A tract or parcel of land designated as such on a duly recorded plat which may be entirely surrounded by public streets or by combination of public streets and public parks, cemeteries, railroad rights-of-way, or natural or manmade physical features that disrupt what would otherwise be an unbroken landscape (for example, ditches, gullies, ridges, etc.).
- C. BUILDING: Any structure which is built for the support, shelter, or enclosure of persons, animals, chattels, machinery, equipment or movable property of any kind.
- D. BUILDING SETBACK LINE: The line on a plat generally parallel to a property line, indicating the limit beyond which buildings or structures may be erected and the area between a street or property line and the building setback line within which no structure may be permitted.
- E. CITY: The City of Poteet, Texas.
- F. CITY ATTORNEY: The person duly appointed by the City Council as City Attorney.
- G. CITY COUNCIL: The duly and constitutionally elected governing body of the City of Poteet, Texas.
- H. CITY ENGINEER: A Registered Professional Engineer employed or designated by the City Council to provide professional engineering services for and in behalf of the City.
- I. CITY ADMINISTRATOR: The person duly appointed by the City Council as the chief administrative officer of the City.
- J. CUL-DE-SAC: A street having but one outlet to another street, and terminated on the opposite end by a vehicular turn-around.
- K. DEAD END STREET: A street, other than a cul-de-sac, with only one outlet.
- L. DOUBLE FRONT LOT: A building lot, not a corner lot, which has frontage on two streets.

M. EASEMENT: A strip of land reserved for the use of the public by the grantor, usually at the rear or side of lots or parcels of land, in which to install and maintain utility lines, drainage ditches or channels, or for other City or public services; the ownership or title to the land encompassed by the easement being retained by the owner. In granting the easement, the grantor is in effect vesting the public with authority to control the use of land within the easement and, in exercising such control, the City may; specify that no building or part of a building or other permanent structure, in case of a drainage easement, may be located within the limits of the easement.

N. EQUIVALENT DWELLING UNIT (EDU): Basis for establishing equivalency among and within various customer classes based upon the relationship of the continuous duty maximum flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a 5/8" diameter simple water meter, using American Water Works Association C700-C703 standards. EDU's for water meters are as follows:

<u>Meter Size/Type</u>	<u>EDU's</u>
5/8" simple	1.0
3/4" simple	1.5
1" simple	2.5
1 1/2" simple	5.0
2" simple	8.0
3" simple	20.0
4" simple	50.0
6" simple	100.0

O. EXTRATERRITORIAL JURISDICTION: Within The terms of Section 42.021 of the Texas Local Government Code, the term "extraterritorial jurisdiction" means the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the City of Poteet, Texas, the outer boundaries of which are measured from the extremities of the corporate limits of the City outward for such distances as may be stipulated in Section 42.021 (at the present time being one-half mile) in accordance with total population of the incorporated City of Poteet, Texas, in which area, the City may enjoin the violation of its subdivision control ordinance.

P. FINAL PLAT: The map or plan of a proposed subdivision to the City in accordance with the procedures set forth by this Ordinance, for approval by the City Council; and said plat to be prepared in accordance with this Ordinance.

Q. FLOOD PLAIN: Any and all land area adjoining the channel of a river, stream, lake, watercourse, marshy area, or other drainage element, which has been or may be inundated by storm water runoff. The extent of the flood plain shall be determined by the crest of a flood having an average frequency of occurrence of once in 100 years, as established by the Federal Insurance Administration.

R. FRONT or FRONTAGE: That portion of a tract of land which abuts on a public street to which it has direct access.

S. LOCAL STREET: A street whose function is to provide access to abutting residential property within neighborhoods, with all intersections at grade, and not of continuous routing for any great distance so as to discourage heavy, through traffic.

T. LOT: A physically undivided tract or parcel of land having frontage on a public street and which now, or in the future may be, offered for sale, conveyance, transfer, lease, or improvement, which is designated as a distinct and separate tract and which is identified by a lot number or tract symbol on a duly approved subdivision plat which has been properly recorded.

- U. LOT DEPTH: The length of a straight line connecting the mid-point of the front and rear lot lines.
- V. LOT WIDTH: The average length of the front and rear property lines.
- W. MAY, SHALL: The word "may" is permissive. The word "shall" is mandatory.
- X. PAVEMENT WIDTH: The portion of the surface of a street available for vehicular traffic and, where curbs are laid, the portion between the face of curbs.
- Y. PERSON: Any individual, association, firm, corporation, governmental agency, or political subdivision.
- Z. PLAT: A map, drawing, chart, or plan showing the layout of a proposed subdivision into lots, blocks, streets, parks, school sites, commercial or industrial sites, drainage ways, building lots, easements, and alleys; any similar type of plat, which a subdivider submits for approval and a copy of which he intends to record in final form.
- AA. PRELIMINARY PLAT: The first or introductory plat of a proposed subdivision.
- BB. STREET: A public right-of-way, however designated, which provides vehicular circulation and access to adjacent property.
- CC. SUBDIVIDER: Any person or persons, firm, or corporation subdividing a tract or parcel of land to be sold or otherwise handled for their own personal gain or use; also a developer.
- DD. SUBDIVISION: A division of any tract of land situated within the corporate limits, or within the extraterritorial jurisdiction of the City of Poteet, Texas, in two or more parts for the purpose of laying out a subdivision of the tract of land, including an addition to the City; to layout suburban lots or building lots, or other lots; or to layout streets, alleys, squares or parks or other parts of the tract intended to be dedicated for public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A division of a tract under this Ordinance includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. "Subdivision" includes the resubdivision and vacation and correction platting, and when appropriate to the context, relates to the process of subdivision or to the land or area subdivided. A "subdivision" can also consist of only one lot or tract, platted and filed for record, or two or more lots vacated and replatted as a single lot.
- EE. SURVEYOR: A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by State statute to practice the profession of surveying.

#### **SECTION 6: SCOPE AND JURISDICTION**

Before any plat, or re-plat of land within the corporate limits of the City of Poteet or within one its extraterritorial jurisdiction, shall be recorded with the County Clerk, it shall first be reviewed by the City Administrator and City Engineer and then approved by the City Council. The filing of any plat, or replat, without complying with the requirements of this Ordinance, or the transfer of land by filing or any instrument in the nature of a conveyance, without having first complied with the requirements of this Ordinance, shall be deemed a violation of the provisions of this Ordinance.

**SECTION 7: APPLICATION**

**A. CITY COUNCIL APPROVAL REQUIRED**

It shall be unlawful for any landowner or the agent of any landowner, to layout, subdivide, plat, or replat any land into lots, blocks, and streets within the jurisdictional limits of the City without the approval of the City Council. It shall also be unlawful for any such owner or agent to offer for sale or to sell any such property therein or thereby which has not been laid out, subdivided, platted, or replatted in accordance with this ordinance.

**B. CITY IMPROVEMENTS TO BE WITHHELD**

The City will make no improvements nor will the City maintain any streets or furnish any public utility service in any addition or subdivision for which approved preliminary and final plats are not on file with the City Secretary and the County Clerk.

**C. BUILDING PERMITS WITHHELD UNLESS THIS ORDINANCE IS COMPLIED WITH**

No street number and no building permit shall be issued for the construction of any building on any piece of property subdivided after the date hereof, unless said property has been subdivided or resubdivided in accordance with this ordinance.

**SECTION 8: PROCESSING PROCEDURE**

**A. FILING FEES**

The schedule of fees and charges to be paid by the subdivider to the City of Poteet are contained in APPENDIX A, SECTION I. These fees are to be paid prior to conducting a Preliminary Conference, tendering any plat or plan to the City, and each of the fees and charges provided for in the most recently amended schedule of fees shall be paid in advance. No action of the City shall be valid until the fee shall have been paid to the City of Poteet.

**B. PRELIMINARY CONFERENCE**

Prior to the official filing of a preliminary plat, the subdivider, his or her planner or their representative should consult with and present a proposed plan of subdivision to the Planning and Zoning Commission for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land. See Appendix B – Subdivision Concept Plan.

**C. PRELIMINARY PLAT**

**1. Required Copies and Filing Deadline**

The subdivider shall submit five copies of the preliminary plat of the entire area being subdivided to the City Administrator for review.

**2. Plat Requirements**

The plat shall be drawn to scale of one inch equals 1" = 100' and shall show and be accompanied by the following information:

- a. The name of the proposed subdivision, which shall not duplicate an existing or pending subdivision.

- b. A complete legal description by metes and bounds of the land being subdivided.
- c. The total acreage and total number of lots and blocks within the proposed subdivision.
- d. The name of the owner (and address unless given in letter of transmittal). If the owner is a partnership, corporation, or entity other than an individual, the name of the responsible individual, such as president or agent must be given.
- e. The name of the registered engineer and/or registered public surveyor responsible for preparing the plat.
- f. North point: North to be at the top of the sheet if possible.
- g. Date: Each revision shall bear a new date.
- h. Ownership boundaries shall be drawn in very heavy lines and shall include overall dimensions and bearings.
- i. Boundary lines and adjacent right-of-way lines of the proposed subdivision shall be drawn with dashed lines.
- j. A tie to an original corner of the original survey of which said land is a part.
- k. Name and location of adjacent subdivisions, streets, easements, pipe lines, watercourses, etc., and the property lines and name of adjoining property owners with latest deed record in unsubdivided tracts.
- l. Existing topographic and plan metric features within the proposed subdivision, including watercourses, width of existing easements, contour lines at two (2) foot intervals, and any other physical features pertinent to the subdivision.
- m. Existing transportation features within the proposed subdivision including the location and width of rights-of-way, streets, alleys and easements.
- n. Proposed features including name of streets; approximate bearing and distances of all lots, location of building lines, alleys and easements; and schematic plans and outline specifications for drainage, sanitary facilities and utilities.
- o. Designation of any sites for special uses including churches, sewage disposal plants, water plants, business, industry, or other special land uses. If proposed use is unknown, designate as unrestricted. Where a proposed site in the area included with the proposed addition or subdivision is planned for a school, park or public building, such site shall be reserved on the preliminary plat for the proposed facility.
- p. Limits of the 25-year and 100-year floodplain for all waterways draining 50 acres or more. Federal Emergency Management Agency (FEMA) floodplains limits need to be shown on the plat.
- q. Statement that the preliminary plat conforms to the adopted concept plan.

- r. The City Council establishes the minimum lot size within the City Limits to be not less than 6,000 square feet. A statement outlining the estimated average single family lot size and the estimated range of lot sizes by grouping of 6,000-7,500 square feet, 7,500-9,000 square feet, 9,000 + square feet will also be provided.
- s. A vicinity map showing the location of the property in relation to the overall city.
- t. Stormwater Management Plan in accordance with the requirements of Appendix D.
- u. A preliminary layout of all utilities, including sizes if water & sewer lines.

3. City Engineer to Certify Information

The City Engineer will certify that all of the above, information is on the plat submitted, and incomplete submittals will be returned to the developer prior to submittal to the City Administrator.

4. Planning and Zoning Commission to Review

The City Administrator and City Engineer shall review the preliminary plat, and present their recommendations to council which will act upon said plat as submitted or as modified and, if approved, shall express its approval as "**conditional approval**" and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and the reasons therefore. At the meeting during which the preliminary plat comes up for review, the party submitting such plat shall appear in person or by agent or by attorney.

5. City Administrator to Note its Action

The City Administrator shall note council action and conditions, if any, on five copies of the preliminary plat.

6. Distribution of Plat Copies

Of the five copies, two shall be returned to the one subdivider, one shall be filed with the Director of Public Works, one shall be furnished to the City Engineer, and one shall be retained by City Hall.

D. FINAL PLAT

1. Required Copies: Filing Deadline

The subdivider shall provide one reproducible and five legible black line copies of the final plat, to the City Administrator after the preliminary plat has been approved and all required changes and alterations thereto have been made.

- a. No final plat will be considered unless a concept plan and preliminary plat has first been submitted and approved, except:
  - (1) that the requirement for a concept plan may be waived, in writing, by the City Administrator if in his/her opinion the proposed subdivision requires no new streets or utilities and has an established land use by existing development, and

- (2) when the requirement for a concept plan is waived in accordance with (1) above, the applicant shall provide a list of adjacent property owners outlined in subsection Appendix B, paragraph 2 of this Ordinance and a public hearing shall be held by the City Council in conjunction with its consideration of the preliminary plat.
- b. The final plat shall be filed with the City Administrator at least 15 days prior to the meeting at which approval is requested.
- c. Annexation. Where land to be subdivided lies outside the existing City limits, a final plat shall be accompanied by a petition for annexation; except where the City Administrator determines, in writing, that the City does not wish to annex or is not capable of annexing the subject land at the time the application for final plat approval is requested.
- d. Plat Requirements. The final plat shall be digitized on sheets 24" x 36", and to a scale of 1"= 100'. Where more than one sheet is required, an index sheet shall be filed showing the entire subdivision. The following information will be shown on or will accompany the plat:
  - (1) A title including the name of the subdivision; the name of the landowner or owners; the name of the registered engineer or registered public surveyor responsible for the preparation of the plat; the scale and location of the subdivision with reference to an original corner of the original survey of which said land is a part; the date, North arrow, and total acres in the subdivision.
  - (2) The certificate of the registered engineer or licensed surveyor who surveyed, mapped and monumented the land shall be placed on the face of the plat as follows:

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF ATASCOSA

That I do hereby certify that I prepared this plat from an actual and accurate on-the-ground survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the subdivision regulations of the City of Poteet, Texas.

Signature and Seal of Registered  
Engineer or Surveyor

- (3) A certificate of ownership and dedication to the public of all streets, utilities, easements, alleys, parks, playgrounds, or other dedicated public uses, signed and acknowledged before a notary public by the owners and any holders of liens against the land and shall be placed on the face of the plat.

- (4) An accurate on-the-ground boundary survey of the property with bearings and distances and showing the lines of all adjacent land, streets, easements, and alleys with their names and width (streets, alleys, and lot lines in adjacent subdivision/s shall be shown dashed.). All necessary data to reproduce the plat on the ground must be shown on the plat. Also show City GIS coordinates of two corners.
- (5) A certificate of approval to be signed by the City Engineer shall be placed on the face of the plat.
- (6) The plat shall show all existing features within the area being subdivided, such as existing watercourses, railroads, width of streets, alleys and easements to be retained and other physical features deemed pertinent to the subdivision.
- (7) Streets, alleys and easements that are to be dedicated shall be shown with the following engineering data:
- (8) For Streets: Complete curve data, per Appendix A, (delta, length of curve, radius, point of curvature, point of reverse curvature, point of tangency) shown on the centerline or on each side of the street; length and bearing of all tangents; dimensions from all angle points of curve to an adjacent side lot line shall be provided. The number of feet of roadway shall also be shown on the plat.
- (9) Property facing or adjacent to US and State highways, Farm Roads, Ranch Roads, Spurs, etc., will include a 20' utility easement located parallel to and adjacent to the highway right-of-way.
- (10) For Watercourses and Easements: Distances to be provided along the side lot lines from the front lot line or the high bank of a stream. Traverse line to be provided along the edge of all large watercourses in a convenient location, preferably along a utility easement if paralleling the drainage easement of stream.
- (11) Lot and block lines and numbers of all proposed lots and blocks with complete bearings and dimensions for front, rear and side lot lines.
- (12) Building set back lines shall be shown on all lots.
- (13) Two sets of plans and specifications prepared by a registered engineer and approved by the City Engineer shall be provided for the installation of water, sewer, paving and drainage, and said plans and specifications must be approved by the City Administrator and City Engineer prior to the beginning of any construction of the subdivision.
- (14) An original tax certificate showing that all taxes have been paid shall be submitted with two copies of the final plat to the Atascosa County, Texas Clerks office for filing after final approval by the City Council.

- (15) The City Administrator shall be satisfied that the subdivider will be in a financial position to install or cause to be installed at his own cost, risk, and expense all of the improvements herein required. The City Council may require such security as is in its sole and absolute discretion may deem best in order to insure the orderly development within any subdivision, specifically including, but not limited to a performance bond equal to the estimated cost of the improvements; a bank letter of credit; a personal guarantee; or by requiring the subdivider to grant a lien upon the property contained in such subdivision in favor of the City of Poteet to secure the estimated costs of such improvements. It is expressly understood that as a condition to the approval of said subdivision, no sales will be completed until all utilities are installed and all other improvements required by this Ordinance are made within the block in which said lot is contained.
- (16) Drainage easements or dedication to cover the limits of the 100-year flood plain.
- (17) Limits of the 100-year flood plain.
- (18) Minimum finished floor slab elevations, at a minimum of two feet above the 100-year flood level, for all lots adjacent to or affected by the flood plain.
- (19) A certificate of a registered professional engineer shall be placed on the face of the plat as follows:

STATE OF TEXAS

§

COUNTY OF ATASCOSA

§

I, \_\_\_\_\_ do hereby certify that  
 the information contained on this plat complies with the  
 subdivision and floodplain management ordinances  
 adopted by the City of Poteet, Texas.

Signature and Seal of Registered  
 Professional Engineer

- (20) A digital copy of the plat in AutoCAD 2000 format.

e. Owner-Initiated Plat Vacation(1) Applicability.

The provisions of this section establish a process for approving the elimination of a plat, in whole or in part. Pursuant to VTCA Local Government Code § 212.013, the proprietors of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(2) Initiation

The owner or owners of lots in any approved subdivision, including the developer, shall initiate a plat vacation by filing a petition and declaration with the City Administrator to vacate the plat with respect to their properties. The Petition shall conform to the requirements of this section. The instrument shall be the same as form M set out in this section. If the subdivider so desires, the vacating declaration and an application requesting resubdivision of the plat may be filed and processed simultaneously. Upon filing the vacating declaration, a filing fee as specified in Appendix A shall be paid to the City of Poteet. The filing fee shall not be required if the vacating declaration is filed and processed simultaneously with a resubdivision plat.

(a) Plat Vacation and Resubdivision Application Submittal

## (1) Number of Copies

The City Administrator or City Engineer may require the applicant to submit the original vacating declaration and up to five copies with respective department / agency request for reviews and two legible 8 ½ " X 11" reduced copies of the plat being vacated attached. In addition, the submittal shall include two full size copies of the original plat folded prints together with the required processing fee. A vacating declaration processing fee and copies as listed above are not required in connection with the processing of a resubdivision plat.

## (2) Format

All filed plat copies shall clearly delineate the area to be vacated.

## (3) Contents

The applicant shall include the names and addresses of all owner of lots within the subdivision and their signed written consent.

(4) Certification

The resubdivision plat shall be annotated generally as follows:

The area being resubdivided in this plat had been previously platted on plat known as \_\_\_\_\_ subdivision which is recorded in volume \_\_\_\_\_ page \_\_\_\_\_, County Plat and Deed Records, and was vacated through a vacating declaration being recorded on the same date as this resubdivision plat.

(3) Completeness Review

The City Administrator and City Engineer shall review an application for a plat vacation as provided in this chapter.

(4) Decision

The petition may be approved, conditionally approved or disapproved at a regular public meeting of the City Council subject to the criteria in subsection e., below.

(5) Approval Criteria

The City Council shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety and welfare; but in no event may the City Council approve a petition for vacation if it will materially injure the rights of any nonconsenting property owner or any public rights in public improvements unless expressly agreed to by the agency with jurisdiction over such improvements.

(6) Subsequent Applications

Not applicable.

(7) Amendments

Not applicable.

(8) Scope of Approval

On the execution and recording of the vacating instrument, the vacated plat has no effect. A plat may be resubdivided upon vacation of the original plat. The resubdivision of the land covered by a plat that is vacated shall be platted in the same manner as an original plat. In addition a copy of the vacating declaration form shall be submitted with the resubdivision plat.

(9) Recording Procedures The County Clerk shall write legibly on the vacated plat the word "vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

(10) Form M: Vacating Declaration.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City & Zip Code

State of Texas X

X

County of Atascosa X

Vacating declaration for \_\_\_\_\_ Subdivision. Know all men by these presents that I (we), the undersigned, hereby acknowledge that I am (we are) the owner(s)/proprietor(s) of all the lots embraced by plat number \_\_\_\_\_, known as \_\_\_\_\_, (a copy of which is attached hereto), approved by the City of Poteet on \_\_\_\_\_, and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, \_\_\_\_\_ County Deed and Plat Records.

In accordance with V.T.C.A, Local Government Code Section 212.013 and the Poteet Subdivision Ordinance, the undersigned hereby declare(s) such plat (or portion of such plat as described below) known as \_\_\_\_\_, to be vacated. (If only a portion of the plat is being vacated, describe the area being vacated.)

It is the intent of the undersigned to nullify the force and effect of the recordation of the above referenced plat (or the portion described of the above referenced plat) by filing this vacation instrument in the \_\_\_\_\_ County Deed and Plat Records and to cause the County Clerk to write the word "vacated" in plain, legible letters across the plat (or portion of the plat) so vacated.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_

Owner

\_\_\_\_\_  
Owner's Duly Authorized Agent

Title: \_\_\_\_\_

State of Texas X

X

County of Atascosa X

Before me, the undersigned authority, a notary public for the State of Texas, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed. Given under my hand and seal of office, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My commission expires: \_\_\_\_\_

(There shall be a signature space for each proprietor; there shall be an acknowledgment for each signature; if there is more than one page, the pages shall be numbered page \_\_\_\_\_ of \_\_\_\_\_ (Vacating Declaration for \_\_\_\_\_ Subdivision Plat)).

This vacating declaration for \_\_\_\_\_ Subdivision Plat, submitted to and considered by the City of Poteet, is hereby approved.

Dated \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
City Secretary

or

By: \_\_\_\_\_  
City Administrator

f. Replatting Without Vacating Preceding Plat(1) Applicability

Pursuant to VTCA § 212.014, a replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- (a) is signed and acknowledged by only the owners of the property being replatted;
- (b) is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the municipal authority responsible for approving plats; and
- (c) does not attempt to amend or remove any covenants or restrictions.

(2) Initiation

A subdivider wishing to replat a previously approved and recorded plat shall file with the City Administrator the proposed replat in accordance with this ordinance.

(3) Completeness Review

The City Administrator and City Engineer shall review and application for replat in accordance with this chapter.

(4) Decision

Pursuant to VTCA Local Government Code § 212.014, a replat shall be approved by the City Council in the same manner as a subdivision.

(5) Approval Criteria

The replat shall be approved unless it is inconsistent with any of the criteria set forth in this ordinance. The replat shall not be approved if it does not comply with any of the criteria set forth in this ordinance.

(6) Subsequent Applications

There is no restriction on subsequent applications for a replat.

(7) Amendments

A replat may be amended by filing a new replat. The replat shall be processed in the same manner as the original replat.

(8) Scope of Approval

Approval of a replat shall be restricted to the matters described in subsection (5) of this Section, and shall confer no additional rights upon the applicant.

(9) Recording Procedures

The replat may be recorded and is controlling over the preceding plat without vacation of that plat.

g. Amending Plats

The purpose of this section is to provide a streamlined and efficient process for the combination of parcels or the replat of parcels. Pursuant to VTCA Local Government Code § 212.0045, a municipality need not require platting for every division of land otherwise within the scope of the state subdivision enabling legislation. VTCA Local Government Code § 212.0065 authorizes the City to authorize amending plats to be approved administratively.

(1) Applicability

Pursuant to VTCA Local Government Code § 212.016, a plat may be amended, and the City Administrator may issue an amending plat, if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

- (a) to correct an error in a course or distance shown on the preceding plat;
- (b) to add a course or distance that was omitted on the preceding plat;
- (c) to correct an error in a real property description shown on the preceding plat;
- (d) to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (e) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (f) to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (g) to correct an error in courses and distances of lot lines between two adjacent lots if:
  - 1. both lot owners join in the application for amending the plat;
  - 2. neither lot is abolished;
  - 3. the amendment does not attempt to remove recorded covenants or restrictions; and
  - 4. the amendment does not have a material adverse effect on the property rights of the other owners in the plat;

- (h) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (i) to relocate one or more lot lines between one or more adjacent lots if: (A) the owners of all those lots join in the application for amending the plat; (B) the amendment does not attempt to remove recorded covenants or restrictions; and (C) the amendment does not increase the number of lots;
- (j) to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if: (A) the changes do not affect applicable regulations of the city; (B) the changes do not attempt to amend or remove any covenants or restrictions; and (C) the area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area; or
- (k) to replat one or more lots fronting on an existing street if: (A) the owners of all those lots join in the application for amending the plat; (B) the amendment does not attempt to remove recorded covenants or restrictions; (C) the amendment does not increase the number of lots; and (D) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (l) to establish a no build easement
- (m) to establish fire lanes

(2) Initiation

A subdivider wishing to amend an approved plat shall file with the City Administrator and City Engineer the amending plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed. The City Administrator and City Engineer will determine the extent to which the amending plat will require review by the various departments and agencies of the city. If the plat being amended has been recorded, the additional recordation fee shall be deposited with the City at the time of plat filing.

(3) Completeness Review

The City Administrator and City Engineer shall review an application for an amending plat in accordance with this chapter.

(4) Decision

Pursuant to VTCA Local Government Code § 212.016, notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat. The amending plat shall be processed by the City Administrator and City Engineer in the same manner as a subdivision plat. If the plat being amended has been recorded, the amending plat shall be clearly marked "Amending plat of (name\_\_\_\_). This plat amends the plat previously recorded in the plat and deed records of \_\_\_\_\_ County, Volume \_\_\_\_\_, Page \_\_\_\_\_." The amending plat shall then be recorded if all requirements have been met. If the plat being amended has not been recorded, the amending plat may be approved by the City Administrator. Upon approval by the City Administrator, the amending plat shall be annotated with the following statement: "This plat includes amendments approved by the City Administrator."

(5) Approval Criteria

The amending plat shall be approved unless it is inconsistent with any of the criteria set forth in this ordinance. The amending plat shall not be approved if it does not comply with any of the criteria set forth in this ordinance.

(6) Subsequent Applications

There is no restriction on subsequent applications for an amended plat.

(7) Amendments

An amended plat may be amended by filing a new amended plat. The amended plat shall be processed in the same manner as the original amended plat.

(8) Scope of Approval

Approval of an amended plat shall be restricted to the matters described in subsection (5) of this section, and shall confer no additional rights upon the applicant.

(9) Recording Procedures

The amending plat may be recorded and is controlling over the preceding plat without vacation of that plat.

h. Replatting of Antiquated Plats(1) Applicability

For purposes of this section, any subdivision platted prior to June 14, 1927, the effective date of VTCA, Local Government Code Chapter 212, shall not be considered a plat under that chapter and a replat of such a subdivision shall be considered an original plat.

(2) Initiation

An application for a replat shall be submitted to the City Administrator. The plat shall be signed and acknowledged by only the owners of the property being resubdivided. The plat shall be annotated with a certificate the same as form "P", in this chapter.

(3) Decision

The replat must be approved by the City Council after a public hearing. The notification procedures for a subdivision plat shall apply.

(4) Approval Criteria

A subdivision or part of a subdivision may be replatted without vacation of the preceding plat if the conditions listed below are met.

- The procedures and specifications pertaining to plats continued in this article shall apply.
- The replat shall not attempt to amend or remove any covenants or restrictions.

i. Replats Subject to Single-Family or Duplex Residential Zoning or Deed Restrictions

The notice shall be accompanied by the replat fee specified in the subdivision ordinance; a map of the previous plat annotated with a 200 foot radius around the area proposed to be replatted and indicating any areas which were previously vacated or replatted; and a list of names and addresses of property owners in the previous plat, as indicated on the most recently approved municipal or county tax roll as applicable, within 200 feet of the property proposed to be replatted. The list shall be signed by the subdivider, notarized, and dated. In lieu of providing the property owner names and addresses, the applicant may elect to have staff prepare the list upon payment of the notification list fee specified in the subdivision ordinance.

j. Form O: Replat Certification (For areas limited by zoning or deed restrictions to single or duplex family residential use).

State of Texas     X  
                                  X  
County of Atascosa             X

The area being replatted was previously platted on plat (name) which is recorded in volume \_\_\_\_\_, page \_\_\_\_\_, (name) County plat and deed records. The City of Poteet City Council at its meeting of (date) held a public hearing which involved notification on the proposed replatting of this property.

I (we), the owner(s) of the property shown on this replat hereby certify that this replat does not amend or remove any covenants or restrictions.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner's duly authorized agent

Sworn and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My commission expires: \_\_\_\_\_.

k. Form P: Replat Certification (For areas not limited by zoning or deed restrictions to single or duplex family residential use).

State of Texas X  
X  
County of Atascosa X

The area being replatted was previously platted on plat (name) which is recorded in volume \_\_\_\_\_, page \_\_\_\_\_, (name) County plat and deed records.

I (we), the owner(s) of the property shown on this replat hereby certify that this replat does not amend or remove any covenants or restrictions. I (we) further certify that no portion of this replat, or any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner's duly authorized agent

Sworn and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

My commission expires: \_\_\_\_\_.

- I. Form Q: Replat Certification (For areas designated or reserved for other than single or duplex family residential use).

State of Texas X  
 X  
 County of Atascosa X

The area being replatted was previously platted on plat (name) which is recorded in volume \_\_\_\_\_, page \_\_\_\_\_, (name) County plat and deed records.

I (we), the owner(s) of the property shown on this replat hereby certify that this replat does not amend or remove any covenants or restrictions. I (we) further certify that the area of this replat was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

\_\_\_\_\_  
 Owner

\_\_\_\_\_  
 Owner's duly authorized agent

Sworn and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public in and for the State of Texas

My commission expires: \_\_\_\_\_.

**SECTION 9: GENERAL REQUIREMENTS AND STANDARDS**

**A. SUBDIVIDER TO RETAIN AN ENGINEER: OTHER REQUIREMENTS**

(1) Responsibilities of Engineer

The subdivider shall retain the services of an engineer, registered in the State of Texas, whose seal shall be placed on each sheet of the drawings, and who shall be responsible for the design and inspection of the drainage, roads and streets, and sewer and water facilities within the subdivision. The services performed by the engineer shall be as designated in the 1982 issue of "Manual of Professional Practice - General Engineering Service", published by the Texas Society of Professional Engineers, and shall include both design and inspection as defined therein.

(2) Subdivider to File Either Letter of Credit or Performance Bond Prior to Approval of Final Plat

Prior to approval of the final plat, the subdivider shall file with the City Administrator either an irrevocable letter of credit issued by a banking or other financial institution authorized to do business in Texas, or a performance bond executed by a corporate surety licensed to do business in the State of Texas, in an amount equal to the cost of the uncompleted and unaccepted improvements required by this Ordinance, as estimated by the City Engineer, conditioned that the subdivider will complete such improvements within two years from the date of final plat approval. Such letters of credit and bonds shall conform to forms approved by the City Council.

(3) Requirements Prior to Final Acceptance for Maintenance

Prior to final acceptance for maintenance of the completed improvements by the City Council, the subdivider shall file with the City Administrator the following:

- a. Either a two year maintenance bond executed by a corporate surety licensed to do business in the State of Texas, conditioned that the improvements are free from defects in materials and workmanship, or a letter of credit from a banking or other financial institution authorized to do business in Texas, committing funds for the correction and repair of any defects in materials or workmanship; said bonds or letters of credit shall be in the amount of 15 % of the contract price, and they shall conform to forms approved by the City Council; and
- b. One set of reproducible "AS BUILT" plans for each project, which further contains or has attached thereto a certificate of a registered professional engineer in substantially the following form:

STATE OF TEXAS

COUNTY OF ATASCOSA

)  
)

I, \_\_\_\_\_ do hereby certify that the improvements as built and as described herein comply with the subdivision and floodplain management ordinances adopted by the City of Poteet, Texas.

Signature and Seal of Registered Professional Engineer

B. STREETS - GENERAL

See Appendix C – Transportation and Street Design

C. LOTS

1. Area: The City Council establishes the minimum lot size within the City Limits to be not less than 6,000 square feet. All lots platted in subdivisions located outside the city limits, but within the City's extraterritorial jurisdiction shall be a minimum of 9,600 square feet. If approval by the City Council for smaller lots is sought, the development density shall be limited to the lesser of the following:

- a. A minimum lot size of 7,500 square feet, or
- b. Twice the density, expressed in dwelling units per acre, of any recorded residential subdivision lying within 200 feet of the proposed development.

2. Width

The minimum width of a lot at the front building line shall be 60 feet.

3. Lot Facing

- a. Street Frontage: Each lot shall be provided with the minimum frontage on an existing or proposed public street.

- b. Double Front: Double front lots are prohibited except when backing on major thoroughfares.
- c. Front Facing: Wherever feasible, each lot should face the front of a similar lot across the street. In general, an arrangement placing adjacent lots at right angles to each other should be avoided.

4. Lot Numbering

All lots shall be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat; and no streets or separations occur.

5. Driveway Restrictions

Rear and side driveway access to major through fares shall be prohibited.

D. BLOCKS

1. Block Length

a. Residential-Single Family Standard or Lane Lot Development:

Residential blocks for through streets shall be no longer than 1,350' measured along the center of the block, nor shorter than 600'.

b. Residential-Two Family or Small Lot Development:

(1) Residential blocks for duplex or small lot development [lots less than 9,000 square feet] shall be designed to provide for a cul-de-sac or loop street pattern.

(2) The maximum length for a cul-de-sac designed to accommodate duplex or small lot development shall be 450' feet.

(3) The maximum length of any leg of a loop road shall be 600' feet provided the total length of the loop does not exceed 1, 200' feet.

c. Maximum block length along a major street shall be 1,500' feet except under special conditions and upon approval of the City Administrator and City Engineer.

d. Block length shall be measured along the centerline of the street from the street's intersection with the right-of-way of any intersecting street or in the case of a cul-de-sac from the said intersecting right-of-way to the end of the cul-de-sac "bulb" right-of-way.

2. Block Width

Blocks shall be wide enough to allow two tiers of lots of at least minimum depth, except when prevented by the size of the property or the need to back up to a major thoroughfare.

3. Block Numbering

Blocks shall be numbered consecutively within the subdivision and/or sections of an overall plat as recorded.

## E. BUILDING LINES

The building lines of all lots platted within the City shall conform to the following setback requirements: 25 feet from the front property line and ten feet from all side and back property lines. All lots platted in subdivisions located outside the City limits, but within the extraterritorial jurisdiction shall conform to the same requirements.

## F. EASEMENTS

The subdivider shall dedicate or grant easements as follows: Where necessary to adequately serve the subdivision with public utilities, easements shall be retained for poles, wires, conduits, storm sewers, sanitary sewers, water lines, open drains, gas lines, telephone, TV cable, or other Utilities. Such easements may be required across part of lots (including side lines) other than along boundary lines, if in the opinion of the City Administrator and City Engineer the same is needed. Where easements turn at an angle of 45 degrees or more, a diagonal cutback shall be provided. Property facing a numbered US or State Highway, Farm Road, Ranch Road, Spur, etc., will have a 20' utility easement adjacent to and parallel to the right-of-way.

## G. DRAINAGE AND STORM SEWERS

See Appendix D for Additional Storm Water Drainage Requirements

## H. WATER SYSTEM

The subdivider shall provide all water lines necessary to properly serve each lot of the subdivision and insure that existing and/or new water facilities can supply the required demand for domestic use and for fire protection at the desired pressure. The subdivider shall install all mains and shall extend the service to all lots terminating thereon with a curbstop and meter box. The subdivider shall submit a certificate to the City Council certifying that the system has been designed in accordance with the requirements of the Texas Commission on Environmental Quality, the City of Poteet, and rules of the Texas Insurance Commission. See Appendix E for the Additional Water System Design Criteria.

## I. WASTEWATER COLLECTION SYSTEM

All subdivisions shall be provided with a sewage disposal system designed by a Registered Professional Engineer as per Texas Commission on Environmental Quality (TCEQ) rules (290 and 317).

Connection with the sanitary sewer system shall be required except where the City Council determines that such connection would require unreasonable expenditure of funds when compared with other methods of sewage disposal. Where septic tanks are installed, the subdivider shall conduct percolation tests under the supervision of the Atascosa County Designated Official in order to determine the adequacy of proposed lot sizes. Plans for such system must be approved by the Atascosa County Designated Official prior to approval of the final plat by the City Council.

The subdivider shall install all sanitary sewer mains and lines to each lot. If the public system is not within 1200' of the subdivision, those portions of the system which lie under paved areas shall be installed and capped off and temporary waste treatment will be provided in accordance with the requirement of State and County.

The subdivider shall submit a certificate to the City Council of the City of Poteet, Texas, certifying that the sewer system has been designed as per the TCEQ rules and the City of Poteet criteria. See Appendix F for Additional Wastewater Collection System Design Criteria.

J. Oversize Mains

1. Size of Mains: All water and wastewater mains shall be installed in accordance with the master water and sewer plan as adopted and amended from time to time by the City. All mains shall be sized to provide adequate service to the tract to be developed. The cost of sewer mains to serve the tract being developed shall be paid in full by the developer.
2. Oversize - On-Site Mains: Where it is determined that an on-site main needs to be of a larger size than that required to serve the tract to be developed, the City may require the developer to install such oversized main. For mains up to 16" for water and up to 15" for wastewater, the developer shall be reimbursed the incremental cost difference from over sizing from the oversize account described in paragraph 9.K.10.d. below. For oversized mains in excess of these diameters, the developer will be reimbursed for the incremental cost difference required for over sizing from the oversize account approved for capital improvement projects, or through reimbursement contracts. All reimbursement contracts shall contain a provision terminating the City's obligation to reimburse costs after five years from the effective date of the contract.
3. Oversize - Approach Mains: Where it is determined that an approach main needs to be of a larger size than that required to serve the tract being developed, the City may require the developer to install such oversized main. Subject to review by the City Engineer and approval by the City Council, the City may reimburse the developer for the incremental cost difference required for the over sizing of approach mains. Upon City Council approval, the reimbursement for approach mains will be paid out of the oversize account described below, from funds approved for capital improvement projects, through reimbursement contracts or any combination thereof. The manner of reimbursement shall be solely at the council's discretion. All reimbursement contracts shall contain a provision terminating the City's obligation to reimburse costs after five years from the effective date of the contract.
4. Oversize Account: A special oversize account is hereby established for the purpose of reimbursing developers for the cost of over sizing wastewater mains. The account shall be funded by a fee based on the number of Equivalent Dwelling Units (EDU fee) to be added to the wastewater system. The EDU fee will be assessed to all developers regardless of whether or nor they are required to install an oversized line. In the event a developer is required to install oversized line(s), the EDU fee for that particular plat shall be due prior to acceptance by the City Council of the utilities for maintenance. In the event a developer is not required to install oversized lines, the EDU fee for that particular plat shall be due prior to official recordation of the plat in the County Clerk's office. In the event a plat is not required, the EDU fee is due when an application is made for a building permit. Interest income earned from this account shall be added to the account.
5. Reimbursement: To be reimbursed, a developer shall present in writing to the City Administrator, a statement of oversize credit proposed. This statement shall be presented no later than the end of the normal working day, eight days prior to the regular City Council meeting, at which time acceptance of the respective oversize line is considered. The reimbursement for the cost of over sizing will be paid from available funds within ten working days after the utilities are accepted by the city for maintenance and developers

shall be reimbursed according to the order in which the utility lines are so accepted. In the event that sufficient funds are not available, interest will accrue at a rate established by the City Council. In the event two or more utility systems are accepted at the same council meeting, the respective developers shall share proportionally in the available funds. Provided, however, that no reimbursement shall be paid to any developer who is delinquent in the payment to the City of any fees or taxes.

6. Oversize Credit: In the event that there are sufficient funds in the oversize account to meet all previous commitments, a developer may be entitled to a credit against the EDU fee. Provided, however, no credit will be granted to any developer who is delinquent in the payment to the City of any fees or taxes. Subject to the foregoing, a developer may reduce the amount of the EDU fee by an amount equal to the reimbursement to which he will be entitled upon utility acceptance. In the event that the utility system has not been completed and accepted by the City within three years from the date of plat approval, the EDU fee shall be immediately due and payable.
7. Fees, Reimbursement Rate and Interest Rate: See APPENDIX A, Equivalent Dwelling Unit Fees.

#### K. STREET LIGHTING

Street lighting shall be provided by the developer and shall conform to the Fourth Edition of the Illuminating Engineering Society Handbook. Lighting levels shall be as recommended for very light traffic in residential areas; medium traffic on feeder streets; and heavy traffic on thoroughfares.

#### L. TRAFFIC CONTROL SIGNS, STREET SIGNS AND WATER METER BOXES

All traffic control signs shall be provided and installed by the developer and shall conform with the Texas Manual on Uniform Traffic Control Devices for Streets and Highways, Vols. 1 and 2. All street signs and water meter boxes shall be provided and installed by the developer, and said street signs and water meter boxes must meet the specifications set forth by the City of Poteet.

#### M. FLOOD REGULATION

The city shall review each proposed subdivision to assure the following:

1. Proposals to Minimize Flood Damage: All such proposals are consistent with the need to minimize flood damage.
2. Public Facilities to Minimize Flood Damage: All public utilities and facilities, such as sewage, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage.
3. Adequate Drainage to be Provided: Adequate drainage is provided so as to reduce exposure to flood hazards.

#### N. DEDICATION OF PARK LAND OR PAYMENT OF FEES IN LIEU THEREOF

Prior to approval of a planned development or a final subdivision plat, each subdivider or developer shall be encouraged to dedicate park land, or contribute cash or park improvements in lieu of land dedication, or any combination thereof as determined by the City Administrator.

1. Definitions: For the purpose of this subsection, certain words and terms are hereby defined; terms not defined herein shall be construed in accordance with this subsection and other codes and ordinances, or their customary usage and meaning:
  - a. Minor subdivision is any residential subdivision or residential portion of a subdivision less than ten acres.
  - b. Major Subdivision is any residential subdivision or residential portion of a subdivision ten acres or greater.
  - c. Park Improvements is any improvements which directly attribute to the development of park land for the enjoyment and use by the intended park users. Such improvements may include, but shall not be limited to the following:
    - (1) Curb/gutter and paving section costs bordering all park land.
    - (2) Water/sewer line costs bordering all park land.
    - (3) Land forms created by the subdivider or developer.
  - d.  Holding Costs  is any and all costs incidental to the respective tract of land borne by the respective landowner.
2. Criteria for Voluntary Land Dedication
  - a. Eligibility of Subdivisions for Park Land Dedication
    - (1) Minor Subdivisions. The developer of any subdivision classified as a minor subdivision shall not be required to dedicate park land.
    - (2) The developer of minor subdivisions is encouraged to pay a cash contribution in lieu of park land-dedication calculated pursuant to subsection 9.N.3.a.
    - (3) Major Subdivisions. The developer of any major subdivision may be requested to dedicate park land. Recommendation of a cash contribution in lieu of park land dedication may be made to the City Administrator by the Director of Public Works.
  - b. Land Dedication Guidelines

Each subdivider or developer is encouraged to dedicate eight percent (8 %) of the total tract, excluding any commercial or industrial parcels that may be in the tract. The Director of Public Works shall determine the suitability of the subject tract pursuant to recommended dedication criteria.

## c. Location

The specification and codes adopted by the City Council shall be used a guide for location of park sites. All land intended for park purposes shall be inspected both on the plat and in the field by the Director of Public Works, who shall make a recommendation to the City Administrator. The final decision on acceptance of park land shall be made by the City Council.

## d. Credit for Private Park Land and Facilities

Subdividers and developers may be allowed a credit against the park land dedication requirement for private parks or recreational facilities provided for the residents of a particular subdivision or planned development. The Director of Public Works shall recommend to the City Administrator the amount of the credit to be allowed, if any.

## 3. Criteria for Contributions in Lieu of Park Land

## a. Cash Contribution in Lieu of Park Land

- (1) The City Administrator may recommend to the City Council that a cash contribution be made equivalent to and in lieu of park land.
- (2) The City Administrator shall recommend to the City Council that developers of all minor subdivisions meet the suggested park land dedication guidelines with a cash contribution at the rate of one hundred twenty-four dollars (\$124.00) per dwelling unit for single-family; one hundred thirteen dollars (\$113.00) per dwelling unit for two -family; and one hundred five dollars (\$105.00) .per dwelling unit for multifamily.

## b. Deposition of Cash Contributions

All cash contributions received by the City shall be received by the Director of Public Works and forwarded to the City Administrator. The City Administrator shall deposit said funds directly into the park fund, as established by the City Council.

## c. Park Improvements in Lieu of Park land

- (1) The City Administrator may recommend to the City Council that a subdivider or developer dedicate park improvements in lieu of park land, equivalent to the cash contribution herein.
- (2) All improvements shall be subject to adopted City specifications and codes. Should there be no adopted specifications or codes adopted by the City, the Director of Public Works shall promulgate such specifications, especially in the case of park/playground equipment.
- (3) All improvements made by the subdivider shall be given credit towards the suggested park contribution according to:
  - (a) The actual cost of utilities installed bordering the park land at the time the utilities were installed.

- (b) The actual cost the City would have to pay for the equivalent park/playground equipment at such time improvements are made.

d. Combinations of Contributions In Lieu of Park land

The Director of Public Works may recommend to the City Administrator that a subdivider or developer make a contribution of park land, cash, and/or park improvements. Determination of exact contribution amounts shall be determined by the City Administrator and recommended to the City Council.

4. Letter of Credit

An irrevocable letter of credit equivalent to the amount of the park dedication shall be given to the City Administrator prior to the final plats being signed by the City Council. The issuer and form of said letter shall be subject to the approval of the City Council.

5. Reservation of Additional Park land

In the event that the park plan, specification or codes for the City specifies a larger amount of park land in a subdivision or planned development than the subdivider or developer may be required to dedicate, the land needed beyond the respective contribution shall be reserved for subsequent acquisition by the City.

a. City May Elect to Hold Such Land By

- (1) Purchasing an option to buy the property for a period and at a price as agreed upon by the City and subdivider or developer.
- (2) Indemnifying the owner of the land for all holding costs for a period of time, said costs and time period to be agreed upon by the City and subdivider or developer.
- (3) If the City and subdivider or developer cannot agree on paragraphs 9.N.3.a. or 9.N.3.b. above, then City may elect to prohibit any development or improvement to the proposed park land for a period not to exceed six (6) months, during which time the City shall use reasonable and diligent efforts to acquire the necessary funds or financing to purchase the subject tract.

- b. No provision herein shall in any way be construed as a limitation of the City's authority to acquire park land by eminent domain.

6. Land Treatment

Upon preliminary platting of the park land from the subdivider or developer to the City, the subdivider or developer shall not cause or allow any fill material or construction debris to be dumped on the land, or otherwise alter, damage or impair the land, water or vegetation on the park site, without written permission from the Director of Public Works. The Director of Public Works may allow the subdivider or developer to dump fill material and take other respective actions specified in this subsection when such action would be beneficial to the park land. In such cases, the Director of Public Works shall provide a letter to the respective subdivider or developer.

7. Transfer of Land
  - a. The area to be dedicated as park land shall be shown on the final plat as "Park Land Dedicated to the City of Poteet" with the respective acreage of the park land also shown.
  - b. Dedication of park land shall be included in the narrative portion of the place where the subdivider or developer dedicates all easements, rights-of-way, etc., to the City of Poteet.
  - c. The City Attorney shall prepare a warranty deed for the park land depicted on the final plat that contains the dedicated park land, which shall be signed by the developer on or before the subdivision is seventy-five percent (75%) built out according to issued certificates of occupancy.
8. Payment of Fees in Lieu of Land
  - a. The subdivider or developer shall pay any cash contribution to the City on or before the subdivision is seventy-five (75%) percent built out according to issued certificates of occupancy.
  - b. Should the subdivider or developer divide the subdivision into sections, the fee for the entire subdivision shall be divided by the number of sections in the subdivision, and the fee attributable to each section shall be paid on or before the respective section is seventy-five percent (75%) built out according to issued certificates of occupancy.

#### SECTION 10: SURVEY REQUIREMENTS

##### A. PLACEMENT OF MONUMENTS

Monuments, consisting of one-half (1/2") inch iron pipe or one-half (1/2") inch reinforced steel or larger, twenty-four (24") inches in length (if deep sand, three-quarter {o/.."} rods and thirty-six {36"} inches long), shall be placed at all corners of the block lines, and at the point of intersection of curves and tangents of the subdivision.

##### B. BENCH MARK

At least one (1) bench mark for each subdivision shall be permanently installed in an approved manner, with the location and the elevation as shown on the plat. Permanent bench marks shall be five (5') feet long concrete posts six (6") inches in diameter with the top to be at least twelve (12") inches below finished grade.

##### C. LOT MARKER

Lot markers shall be one-half (1/2") inch rebars, at least twenty-four (24") inches in length, placed at each corner of all lots, flush with the average ground elevation, or they may be countersunk if necessary to avoid being disturbed.

#### SECTION 11: RESERVATIONS

##### A. PERMITTED PURPOSES

No land contained in the proposed subdivision shall be reserved for any use other than a use permitted by the City Ordinances.

B. DESIGNATION ON PLAT

The specific use for which each piece of land is to be reserved must be shown by appropriate label or description on the subdivision plat. Provision for future abandonment of a reservation as may be appropriate must likewise be shown on said plat.

C. SCHOOLS

The location and size of schools shall be in accordance with the Poteet Independent School District school plan and with the requirements of the City of Poteet.

**SECTION 12: VARIANCES**

When a subdivider can show that a provision of these regulations would cause unnecessary hardship if strictly adhered to and where, because of some condition peculiar to the site, in the opinion of the City Administrator and City Engineer, a departure may be made without destroying the intent of such provisions, the City Administrator may recommend a variance to the City Council.

**SECTION 13: AS-BUILT DRAWINGS**

The engineer representing the subdivider shall present to the Director of Public Works, reproducible complete "As Built Plans" for all paving, drainage structures, water lines and sewer lines within thirty (30) days after completion of each contract.

**SECTION 14: ACCESS REGULATIONS**

A. All entrance and exit driveways to public streets shall be located with due consideration for traffic flow and so as to afford maximum safety to traffic on the public streets.

1. Discourage the routing of vehicular traffic to and from nonresidential uses through local residential streets; and
2. Minimize conflict with vehicular traffic.

B. In designing and locating entrance and exit driveways, the following regulations shall be observed:

1. Entrance and exit driveways to all State Highway routes within the City Limits of Poteet, Texas shall be not less than thirty (30') feet in width [i.e. one entrance and exit lane at fifteen (15') feet] each nor in excess of forty-five (45') feet [one entrance and two exit lanes at twelve (12') feet each and a maximum nine (9') foot wide landscaped median or island] in width for lots used for nonresidential purposes. For residential driveway, widths shall not be less than twelve (12') feet or more than twenty-four (24') feet. Shared driveways are permitted for nonresidential development, i.e., one common driveway serving two contiguous lots to all State Highway routes within the City Limits and located at/about the common property corner, not exceeding forty-five (45') feet in width, including any proposed median up to nine feet (9') wide. For all driveways other than to all State Highway routes within the City Limits of Poteet, Texas, entrance and exit driveways shall not exceed twenty-four (24') feet and maximum thirty (30') feet (for emergency vehicles). All access driveways to nonresidential lots shall be at 90 degrees, or within a limit of plus or minus 10 degree off 90 degree, to the intersecting public street. Landscaped islands or medians beyond the property line are prohibited in the right-of-way without prior written approval of the Texas Department of Transportation.

2. Access to all other public streets shall be by no more than two points of access for each four-hundred (400') feet of lot frontage, or fraction thereof. Lots less than one-hundred (100') feet in width shall have no more than one point of access to anyone public street. In all cases, owners and developer shall provide adequate access to each proposed lot for subdivisions, so that internal traffic management is provided.
  3. The minimum separation between driveways along all State Highway routes within the City limits of Poteet is one-hundred (100') feet. To the greatest extent possible, proposed access to all State Highway routes within the City limits of Poteet should align with existing driveways or public streets on the opposite side of the road. If this is not possible, then there shall be a minimum one-hundred-twenty (120') foot offset, as measured from driveway edge to edge between such driveways. For all other roads or streets, the minimum distance between any two driveway entrances, whether on the same or different lots, shall be thirty-five (35') feet, measured along the curb line, except for driveways on a cul-de-sac.
  4. Driveway entrances shall be set back at least thirty-five (35') feet from the point of tangency of the curb at any intersecting street.
  5. Adequate culverts shall be provided under driveway entrances to prevent obstruction of drainage ways. The minimum size shall be eighteen (18") inches or equivalent approved by the City Engineer.
  6. All driveways shall be designed so as to provide safe vehicular entrance and exit without the necessity of backing out into a public street.
  7. Every driveway entrance and exit shall be at roadway grade level where the driveway intersects the City's right-of-way. For access driveways to all State Highway routes within the City limits of Poteet, a negative slope of two (2%) percent shall be required where there is no curb and gutter for a minimum of eight (8') feet or to the top of the culvert, and areas with curb and gutter, a positive grade will be allowed.
  8. All direct ingress and egress shall be designed so as to minimize increases in traffic flow on other streets within the City. Mutual access agreements on parking lots, driveways and adjoining properties shall be encouraged. The specific number, width and location of ingress and egress points shall be established by a professional traffic engineer, subject to City Council approval.
- C. Access roadways for fire apparatus shall be designed and adhere to the following regulations:
1. Means of access for fire department apparatus shall consist of fire lanes, private or public streets, commercial driveways, alleys, parking lot lanes, or a combination thereof.
  2. Means of access for fire department apparatus shall be constructed of a hard, all weather surface, concrete or asphalt, adequately designed to support the heaviest piece of fire apparatus likely to be operated on the roadway.
  3. Every cul-de-sac more than one-hundred-fifty (150') feet in length from the property line to the centerline of the cul-de-sac shall be provided at the closed end with a turn-around, having a curb radius of not less than forty (40') feet.
  4. Turns or bends in streets shall maintain the minimum surface width for the designated category of street.

5. Turns in publicly owned arterial or collector streets shall be constructed with a minimum turn radius of one-hundred (100') feet to the centerline. Turns in other public or privately owned minor streets shall be constructed with a minimum radius of twenty-five (25') feet at the inside curb line and a radius of fifty (50') feet at the outside curb line.
6. Street surfaces shall not be less than eighteen (18') feet wide, provided no parking is allowed; not less than twenty-six (26') feet wide if parallel parking is allowed on one side; and not less than thirty (30') feet wide if parallel parking is allowed on both sides.
7. Fire lanes in commercial or governmental development shall not be less than twenty (20') feet wide, with eighteen (18') feet surface minimum.
8. Commercial and governmental driveways and alleys shall not be less than fifteen (15') feet in surface width. Residential driveways shall not be less than twelve (12') feet in surface width, except in areas of 25 percent grade where ten (10') feet surface width may be used.
9. Finished grades of all driveways shall not be greater than thirty-five (35%) percent. City Council approval is required to exceed finished grades of five (5%) percent for commercial and twenty (20%) percent for residential driveways.
10. Fire lanes, driveways and alleys connecting to public or private streets shall be provided with flare curb cuts extending at least two feet beyond each edge of street surface.
11. At least thirteen-feet six-inches (13'-6") of nominal height clearance must be provided over the full width of public streets, private streets, fire lanes, commercial and governmental driveways.
12. Bridges, when used for access, shall be the same surface width as for fire lanes, public or private streets, driveways, alleys or parking lot lanes, and shall be maintained in accordance with the applicable sections of the Building Code, using design loading sufficient to carry the imposed loads of the fire apparatus.
13. Barriers defined as chains, gates, etc. may be provided at the entrance to residential driveways, provided they are installed according to the requirements of the city fire code.
14. The method of security for residential development is to be as agreed upon by the contractor the City and shall be commensurate with the item or area needing security. See Appendix C. Section 15 for additional requirements.

#### SECTION 15: PENALTIES

##### A. VIOLATION OF ANY PROVISION OF CHAPTER

Violation of any provision or provisions of this chapter by any subdivider shall constitute a misdemeanor and upon conviction of such violation in municipal court of the City of Poteet, shall be punishable as per Chapter 1, Section 7 of the Code of Ordinances.

##### B. OTHER LEGAL REMEDIES

No conviction or convictions under the penal provision of this chapter, or Article 427B, Texas Penal Code, shall ever be considered as any bar to any injunctive or other legal remedy, relief, right or power existing in the City of Poteet, Texas, to enforce the application and provisions of this chapter by virtue of the Constitution and laws of the State of Texas.

**SECTION 16: LEGAL PROVISIONS**

A. Conflict with Other Ordinances

All Ordinances or parts of Ordinances inconsistent with the terms of this Ordinance are hereby repealed: provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other aspects this Ordinance shall be cumulative of other Ordinances regulating and governing the subject matters covered by this Ordinance.

B. Severability

If any section, clause, paragraph, sentence or phrase of this Ordinance shall, for any reason, be held to be invalid, unenforceable or unconstitutional, such invalid, unenforceable or unconstitutional section, clause, paragraph, sentence or phrase is hereby declared to be severable, and any such invalid, unenforceable unconstitutional section, clause, paragraph, sentence, or phrase shall in no way affect the remainder of this Ordinance, and it is, hereby declared to be the intention of the City Council that the remainder of this Ordinance would have passed notwithstanding the invalidity, unenforceability, or unconstitutionality of any section, clause, paragraph, sentence or phrase thereof.

PASSED, ADOPTED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Irene Ramos, MAYOR

ATTEST:

\_\_\_\_\_  
CITY SECRETARY