

**AGENDA
BENBROOK CITY COUNCIL
THURSDAY, JULY 2, 2009
911 WINSCOTT ROAD, BENBROOK, TEXAS
PRE-COUNCIL WORKSESSION 7:00 P.M.
CENTRAL CONFERENCE ROOM**



1. Discuss meeting date and time for work session on EDC
2. Review and discuss agenda items for regular meeting.

**REGULAR MEETING 7:30 P.M.
COUNCIL CHAMBERS
ALL AGENDA ITEMS ARE SUBJECT TO FINAL ACTION**

I. CALL TO ORDER

**II. INVOCATION – Pastor Todd Pylant with First Baptist Church of Benbrook
PLEDGE OF ALLEGIANCE**

III. MINUTES

1. Minutes of the regular meeting held June 18, 2009
2. Minutes of the special meeting held June 22, 2009

IV. OATH OF OFFICE TO NEWLY ELECTED MEMBER OF COUNCIL, PLACE 7

V. SELECTION OF MAYOR PRO-TEM

**VI. SELECTION OF NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS VOTING
REPRESENTATIVE**

VII. PROCLAMATION/AWARD/RECOGNITION

1. Enroll members into the Texas Navy Association and the Chester W. Nimitz Squadron

VIII. PRESENTATION BY MAYOR AND MEMBERS OF CITY COUNCIL

CC-2009-12 Make appointments to Capital Improvements Projects Committee

IX. REPORTS OF CITY MANAGER

A. GENERAL

- G-1852 Adopt Ordinance Amending Chapter 15.40 – Flood Hazard Protection and adopt FEMA Maps
- G-1853 Resolution to Authorize Offer to Sell City-Owned Real Property at 913 Timberline Drive
- G-1854 Consider Funding for Pedestrian Bridges for Twilight Park and Timbercreek Park

X. INFORMAL CITIZEN COMMENTS – State Law prohibits any deliberation of or decisions regarding items presented in informal citizen comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff place the item on an agenda for a subsequent meeting.

XI. ADJOURNMENT

WORKSESSION

1. Overview of City Charter and Functional Roles of Benbrook Government
2. Discuss City Council Request for Development Information
3. Budget Process Overview



**MINUTES
OF THE MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, JUNE 18, 2009**

The regular meeting of the Benbrook City Council was held on Thursday, June 18, 2009 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Charlie Anderson
Keith Bailey
Mark Washburn
Jim Wilson
Ron Sauma

Also Present:

Andy Wayman, City Manager
Sherri Newhouse, Budget Director
Ed Gallagher, City Planner
Phyllis Wolfe, Information Technology Director

Others Present:

Karen Barber
Bill Smith
Christian Henninge
William Henninge
Deborah Henninge
Dan Tully
Jess Jordan
Diane Hildreth
and four other citizens

I. CALL TO ORDER

Meeting called to order at 7:30 p. m. by Mayor Dittrich.

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation was given by Councilmember Mark Washburn.
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held June 4, 2009

Motion by Mr. Bailey, seconded by Mr. Sauma to accept the minutes, as submitted, of the regular meeting held June 4, 2009.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mayor Dittrich, Mr. Washburn, Mr. Wilson, Mr. Sauma

Noes: None

Motion carries unanimously.

IV. PROCLAMATION/AWARD/RECOGNITION

1. Recognize Christian Henninge for perfect attendance Kindergarten through 12th Grade

Western Hills High School graduate Christian Henninge was presented a plaque recognizing his perfect attendance from Kindergarten through 12th grade.

V. PRESENTATION BY PLANNING AND ZONING COMMISSION

PZ-2009-03 Adopt Ordinance vacating and abandoning a portion of a ten-foot wide utility easement located on Lots 16 and 17, Block 4, Brooks-Moreland Addition

Mr. Gallagher presented the following report: Brooks-Mooreland Addition was platted in North Benbrook in April 1956. Lots 16 and 17 of Block 4 were the southern limit of the subdivision. The lots that back up to Mary's Creek extend to the middle of the creek and have a ten-foot wide utility easement crossing the lots, generally along the top of the creek bank. The easement extends to the south limit of the subdivision, being the south line of Lot 17. Overhead utility facilities were installed in the easement, extending from the north to 8501 Mary's Creek Drive (located on Lots 16 and 17), the last customer in the development.

In 1958 a single-family house was built on Lots 16 and 17 at 8501 Mary's Creek Drive. The overhead utilities from the north extend approximately 30 feet onto Lot 16 to serve the house and were not extended to the south limit of the subdivision. The house was constructed across the lot line between Lots 16 and 17 as the lots are platted, as well as across the ten-foot wide utility easement.

Development of the adjacent property to the south did not occur until the May 1972 platting of Hallman Addition. The Hallman Addition did not include the extension of the utility easement along the top of the creek bank.

The house crossing the lot line and in particular the house encroaching across the utility easements creates title exceptions when title insurance policies are issued with conveyances of the property.

The owner of the property has submitted a minor replat to combine the two lots into a single lot to eliminate the lot line encroachment. The replat application also proposes to vacate and abandon approximately 113 feet of the utility easement occupied by the house. The replat, combining the two lots and reflecting the vacation of a portion of the utility easement, will eliminate the two title exceptions with future conveyances of the property.

All utility suppliers have reviewed the requested vacation of the south portion of the utility easement and offered no objection provided the north portion of the easement that accommodates the existing utilities remain an easement as it has been since 1956.

Motion by Mr. Wilson, seconded by Mr. Anderson to adopt the ordinance vacating the south portion of the ten-foot wide utility easement on Lots 16 and 17, Block 4, Brooks-Moreland Addition and authorize the Mayor to execute a quitclaim deed releasing the interest of the City in the portion of the easement

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1288 being “**AN ORDINANCE VACATING AND ABANDONING A PORTION OF A TEN-FOOT WIDE UTILITY EASEMENT LOCATED ON LOTS 16 AND 17, BLOCK 4, BROOKS-MORELAND ADDITION; DECLARING THAT THE PROPERTY IS UNNECESSARY FOR USE BY THE PUBLIC; AUTHORIZING THE MAYOR OF THE CITY TO EXECUTE A QUITCLAIM DEED RELEASING THE PUBLIC OWNERSHIP INTEREST AND CONTROL IN THE PROPERTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**”

VI. REPORTS OF CITY MANAGER

G-1850 Accept financial report for month of May 2009

Ms. Newhouse presented the following report: Revenues for the month of May were \$537,918. Most of this amount came from Sales Taxes and Franchise Taxes. Other significant revenues came from Property Taxes and Ambulance Fees. Current revenues exceed the amount collected in the prior year by \$1,245,452.

May expenditures were \$1,361,033. Year-to-date expenditures amounted to \$8,915,372. Through May, revenues exceed expenditures by \$3,070,846.

Investments were \$16,735,887 at May 31, 2009.

Motion by Mr. Washburn, seconded by Mr. Sauma to accept the monthly financial report for the month of May, 2009.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

G-1851 Consider Support for Truck Lane Restrictions on I-20

Mr. Wayman presented the following report: In late 2005 and early 2006, the North Central Texas Council of Governments implemented a pilot program to evaluate the effectiveness of restricting truck traffic from the left lane on certain Interstate Highways. The restrictions were applied to I-30 from Hulen to Collins in Tarrant County and on I-20 from Cedar Ridge to I-45 in Dallas County.

The Pilot Study provided the following conclusions: (1) there was a slight improvement in left lane travel speeds; speeds in other lanes stayed the same; (2) normal spacing exists for access and egress; the truck lane restrictions do not create a "wall of trucks" in the right lanes; (3) the overall percentage of trucks in the left lane decreased after restrictions began; the compliance rate in some sections was 99%; (4) there were decreases in crash rates after the truck lane restrictions were implemented; (5) 87% of the general public support expanding truck lane restrictions; however, only 17% of affected trucks support the restrictions; (6) compliance rates were similar with and without additional enforcement; crash rate reductions were evident with and without additional enforcement.

The NCTCOG now wants to expand the truck lane restrictions to include all of I-20 starting at West Loop 820 and eastward. The NCTCOG requests the affected cities (including Benbrook) submit a letter of support by June 30th.

Motion by Mr. Washburn, seconded by Mr. Bailey to authorize the City Manager to submit a letter of support for the expansion of truck lane restrictions along I-20 through Benbrook.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

VII. INFORMAL CITIZEN COMMENTS

VIII. ADJOURNMENT

Meeting adjourned at 7:45 P.M.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary



**MINUTES
OF THE
SPECIAL
MEETING OF THE
BENBROOK CITY COUNCIL
MONDAY, JUNE 22, 2009**

The special meeting of the Benbrook City Council was held on Monday June 22, 2009, at 5:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Mark Washburn
Keith Bailey
Jim Wilson

Also Present: Joanna King, City Secretary

I. CALL TO ORDER

Meeting called to order at 5:30 p. m. by Mayor Dittrich.

II. ADOPT RESOLUTION CANVASSING ELECTION RESULTS FOR A RUN-OFF ELECTION FOR MEMBER OF THE COUNCIL, PLACE 7 HELD JUNE 13, 2009

Joanna King gave the following report: The resolution before City Council is to canvass the returns and declare the results of the election held on June 13, 2009 in a run-off election for Member of the Council, Place 7.

<u>Member of Council Place 7</u>	<u>Precinct 1206</u>	<u>Early Voting Precinct 1206</u>	<u>Precinct 1009</u>	<u>Early Voting Precinct 1009</u>	<u>Precinct 1339</u>	<u>Early Voting Precinct 1339</u>	<u>Total</u>
Pam Brandenburg	149	358	45	65	11	27	655
Ron Sauma	163	222	121	105	49	30	690

Therefore, by virtue of the votes cast as designated, Ron Sauma is hereby declared to be duly elected to the office of Member of the Council, Place 7 of the City Benbrook, Texas, to serve a term of two years.

Motion by Mr. Bailey, seconded by Mr. Wilson to adopt the resolution accepting the returns for the June 13, 2009 run-off election for Member of the Council, Place 7.

Vote on the Motion:

Mr. Bailey, Mayor Dittrich, Mr. Wilson, Mr. Washburn

Noes: None

Motion carries unanimously.

Resolution 2009-07 being **“A RESOLUTION CANVASSING THE RETURNS AND DECLARING THE RESULTS OF AN ELECTION HELD ON THE THIRTIETH DAY OF JUNE 2009 IN BENBROOK, TEXAS, FOR THE PURPOSE OF ELECTING MEMBER OF THE COUNCIL IN PLACE 7, TO SERVE A TWO YEAR TERM”**

III. ADJOURNMENT

Meeting adjourned at 5:34 p.m.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 07/02/09	REFERENCE NUMBER: G-1852	SUBJECT: Adopt Ordinance amending Chapter 15.40- Flood Hazard Protection and adopt FEMA maps	PAGE: 1 of 2
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The City of Benbrook has participated in the Federal Flood Insurance Program since 1979. In doing so, the City agrees to adopt and enforce the necessary Federal Emergency Management Agency (FEMA) floodplain regulations so that the citizens of Benbrook are eligible to purchase flood insurance. The City's floodplain regulations are codified in Chapter 15.40 of the Benbrook Municipal Code.

FEMA's current floodplain maps for the Benbrook area became effective August 23, 2000. FEMA began a map modernization process in 2005 to revise flood maps for Tarrant County by creating digital flood insurance maps (dFIRMs) that are more accurate and are geographic information systems (GIS) compatible. City Staff and consulting engineers worked closely with FEMA and their contractor to develop the new flood maps. Development of the maps elsewhere in Tarrant County was delayed following Hurricane Katrina, but draft maps were released in June 2007. After a lengthy period to respond to public comment, FEMA announced (in March) that the new maps will become effective September 25, 2009.

The new maps more accurately show floodplain boundaries by using better topography and more recent flood studies. Floodways are dramatically reduced and some areas of shallow flooding are eliminated. The extent of the 100-year floodplain is more accurately shown. This eliminates some areas but adds other areas to the 100-year floodplain that were not previously included. Staff will contact these property owners to inform them of the financial benefits of buying flood insurance before the new maps become effective for insurance purposes.

To bring Benbrook floodplain regulations into compliance, the City is required to adopt the attached Ordinance, which revises the flood ordinance and establishes the September 25, 2009 maps as the basis for making floodplain decisions. Failure to adopt the Ordinance will invalidate all flood insurance policies in the City. Most of the text changes are necessary to conform to current FEMA requirements and regulatory language. Staff also has made additional changes to strengthen the Ordinance, including:

1. the definition of substantial improvement has been changed to include the cumulative costs of all improvements,
2. a minimum 50-foot setback from the stream bank is added for newly-created lots to help minimize issues with bank erosion,
3. streets and access routes in new subdivisions must be raised two feet above the flood level, not just the building pads, and
4. modifications to stream channels and floodplains must not increase the flood height (currently allowed to raise flood levels as much as one foot), not diminish valley storage (currently no limit), and not increase channel velocities (currently no limit.)

SUBMITTED BY:	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
CITY MANAGER		DATE:

DATE: 07/02/09	REFERENCE NUMBER: G-1852	SUBJECT: Adopt Ordinance amending Chapter 15.40- Flood Hazard Protection and adopt FEMA maps	PAGE: 2 of 2
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The changes further protect existing and future residents from flooding and could potentially reduce flood insurance premiums by improving the City's Community rating System (CRS) rating.

RECOMMENDATION

Staff recommends that the City Council adopt the attached Ordinance amending Chapter 15.40- Flood Hazard Protection and adopting the September 25, 2009 FEMA maps for use in the City.

ORDINANCE NO. 1289

AN ORDINANCE AMENDING CHAPTER 15.40 OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY REVISING THE BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS; PROVIDING FOR VIOLATIONS, PENALTIES AND INJUNCTION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Benbrook is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has previously adopted Chapter 15.40-Flood Hazard Protection of the Benbrook Municipal Code (1985), as amended; and

WHEREAS, the Federal Emergency Management Agency has revised the boundaries of the Special Flood Hazard Areas relating to limits of the 100-year flood; and

WHEREAS, The City Council of the City of Benbrook now deems it necessary to amend Chapter 15.40 of the Benbrook Municipal Code to reflect the changes in floodplain boundaries and to further strengthen the regulations to protect public health and safety.

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

SECTION I

That Chapter 15.40-Flood Hazard Protection of the Benbrook Municipal Code (1985), as amended, is hereby revised by revising Chapter 15.40 in its entirety to read as follows:

“Title 15 BUILDINGS AND CONSTRUCTION

Chapter 15.40 FLOOD HAZARD PROTECTION

Article I. Statutory Authorization, Findings of Fact, Purpose and Methods

15.40.005 Statutory Authorization

The Legislature of the State of Texas has delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses (Flood Control Insurance Act, Texas Water Code, Section 16.315.) Therefore, the City Council of the City of Benbrook, Texas hereby adopts this Chapter providing for flood hazard protection.

15.40.010 Findings of fact.

A. The flood hazard areas of the city are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and

governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

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

15.40.020 Statement of purpose.

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

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

15.40.030 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter employs the following methods, techniques and/or provisions:

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

Article II. Definitions

15.40.040 Generally.

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

15.40.050 Appeal.

“Appeal” means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

15.40.52 Appurtenant Structure.

“Appurtenant structure” means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

15.40.54 Area of Future Conditions Flood Hazard.

“Area of future conditions flood hazard” means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

15.40.055 Area of shallow flooding.

“Area of shallow flooding” means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent (1%) chance or greater annual chance of flooding to an average depth of one to three feet (1’ to 3’) where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

15.40.060 Area of special flood hazard.

“Area of special flood hazard” is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

15.40.065 Base flood.

“Base flood” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

15.40.66 Base Flood Elevation (BFE).

“Base flood elevation” means the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent (1%) chance of equaling or exceeding that level in any given year - also called the Base Flood.

15.40.067 Basement.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

15.40.68 Breakaway Wall.

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

15.40.070 Critical feature.

“Critical feature” means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

15.40.075 Development.

“Development” means any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

15.40.080 Elevated building.

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

15.40.085 Existing construction.

“Existing construction” means for purposes of determining rates, structures for which the start of construction commenced prior to July 2, 1979. “Existing construction” may also be referred to as “existing structures.”

15.40.087 Existing Manufactured Home Park or Subdivision.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

15.40.088 Expansion To An Existing Manufactured Home Park or Subdivision.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

15.40.090 Flood or flooding.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from: A. The overflow of inland or tidal waters; B. The unusual and rapid accumulation or runoff of surface waters from any source.

15.40.093 Flood Elevation Study.

“Flood elevation study” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

15.40.095 Flood Insurance Rate Map (FIRM).

“Flood Insurance Rate Map (FIRM)” means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

15.40.100 Flood insurance study (FIS.) see “Flood Elevation Study”.

15.40.105 Floodplain or flood-prone area.

“Floodplain” or “flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of flooding).

15.40.107 Floodplain management.

“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

15.40.108 Floodplain management regulations.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

15.40.110 Flood protection system.

“Flood protection system” means those physical, structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

15.40.112 Floodproofing.

“Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water or sanitary facilities, structures and their contents.

15.40.115 Floodway. See “Regulatory Floodway.”

15.40.120 Functionally dependent use.

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

15.40.125 Highest adjacent grade.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

15.40.127 Historic structure.

“Historic structure” means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- 1. By an approved state program as determined by the Secretary of the Interior; or
- 2. Directly by the Secretary of the Interior in states without approved programs.

15.40.130 Levee.

“Levee” means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

15.40.135 Levee system.

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

15.40.140 Lowest floor.

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

15.40.145 Manufactured home.

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

15.40.147 Manufactured home park or subdivision.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

15.40.150 Mean sea level.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

15.40.155 New construction.

“New construction” means, for the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of the initial FIRM (July 2, 1979), and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

15.40.157 New manufactured home park or subdivision.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the city.

15.40.158 Recreational vehicle.

“Recreational vehicle” means a vehicle which is (i) built on a single chassis; (ii) four hundred square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

15.40.159 Regulatory Floodway.

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

15.40.160 Riverine.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

15.40.161 Special Flood Hazard Area – see *Area of Special Flood Hazard*.

15.40.162 Start of construction.

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

means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

15.40.165 Structure.

“Structure” means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

15.40.169 Substantial damage.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

15.40.170 Substantial improvement.

“Substantial improvement” means any reconstruction, rehabilitation, addition or other improvement to a structure, the cumulative cost (including prior improvements) of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either (i) any project for improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

15.40.175 Variance.

“Variance” is a grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

15.40.180 Violation.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the National Flood Insurance Program regulations (Code of Federal Regulations Title 44) is presumed to be in violation until such time as that documentation is provided.

15.40.185 Water surface elevation.

“Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Article III. General Provisions

15.40.200 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

15.40.210 Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for Tarrant County and Incorporated Areas,” dated September 25, 2009, with accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto are adopted by reference and declared to be a part of this chapter.

15.40.220 Floodplain Development permit.

A Floodplain Development Permit shall be required to insure conformance with the provisions of this chapter.

15.40.222 Fees.

Fees for the issuance of floodplain development permits shall be in accordance with Section 1.12.080.

15.40.230 Compliance.

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

15.40.240 Abrogation and greater restrictions.

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

15.40.250 Interpretation.

In the interpretation and application of this chapter, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

15.40.260 Warning and disclaimer of liability.

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

Article IV. Administration

15.40.270 Designation of floodplain administrator.

The director of community development is hereby appointed the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

15.40.280 Duties and responsibilities.

Duties and responsibility of the floodplain administrator shall include, but not be limited to, the following:

- A. Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;
- B. Review permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding;
- C. Review, approve or deny all applications for development permits required by this chapter;
- D. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;
- E. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation;
- F. Notify, in riverine situations, adjacent communities and the State Coordinating Agency (the Texas Water Development Board,) prior to any alteration or relocation of a

watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

G. Assure that flood carrying capacity within the altered or relocated portion of any watercourses is maintained;

H. When base flood elevation data has not been provided in accordance with Section 15.40.210, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of Sections 15.40.310 through 15.40.350;

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

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

15.40.290 Permit procedures.

A. Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing and elevation criteria of Section 15.40.320 (B);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
5. The administrator shall maintain a record of all such information in accordance with Section 15.40.280.

B. Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access routes to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility or use of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
10. The relationship of the proposed use to the comprehensive plan for that area.

15.40.300 Variance procedures.

- A. The appeals commission established by Section 8.04 of the Benbrook City Charter shall hear and render judgment on requests for variances from the requirements of this chapter.
- B. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- C. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- D. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.
- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 15.40.290 (B) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- G. Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (Section 15.40.030).
- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- J. Prerequisites for granting variances:
 1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 2. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- K. Variances may be issued by a community for new construction and substantial

improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Article V. Provisions for Flood Hazard Reduction

15.40.310 General standards.

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

- A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters;
- G. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and,
- H. All new critical facilities, such as emergency centers, hospitals, fire stations, power stations, hazardous materials storage sites, or others as may be determined by the city manager, are prohibited from the five hundred-year floodplain.

15.40.320 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Sections 15.40.210, 15.40.280 (H) or 15.40.330 (D), the following provisions are required:

- A. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to a level of a minimum of two feet (2') above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit an elevation certificate to the floodplain administrator that this standard is satisfied prior to issuance of a certificate of occupancy.
- B. Nonresidential Construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to a level of a minimum of two feet (2') above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that below this level (two feet (2') above the base flood elevation) the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction,

and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this section. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

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

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

D. Manufactured Homes.

1. That all manufactured homes to be placed within Zone A on the city's FHBM or FIRM shall be installed using methods and practices which minimizes flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

2. That all manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the city's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to two feet (2') above the base flood elevation of higher and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

3. That manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the city's FIRM that are not subject to the provisions of this subsection be elevated so that either:

- a. The lowest floor of the manufactured home is two feet (2') above the base flood elevation or higher; or
- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

F. Foundation Protection.

1. Engineered Fill. All new buildings must be constructed on properly designed and compacted fill that extends beyond the building walls before dropping below the base flood elevation and has appropriate protection from erosion and scour. The design of the fill must be approved by the city engineer.

G. Recreational Vehicles. That recreational vehicles placed on sites within Zones A1-30, AH, and AE on the city's FIRM either (i) be on the site for fewer than one hundred eighty consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section 15.40.290(A), and the elevation and anchoring requirements for

manufactured homes in subsection D of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached additions.

15.40.330 Subdivision proposals.

A. All subdivision proposals including manufactured home parks and subdivisions shall be consistent with Sections 15.40.010 through 15.40.030.

B. All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet development permit requirements of Sections 15.40.220, 15.40.290 and this article.

C. Base flood elevation data shall be generated for all subdivision proposals and other proposed development, including the placement of manufactured home parks, if not otherwise provided pursuant to Section 15.40.210 or 15.40.280(H).

D. All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards, including the requirements of Section 16.28.035 of the Benbrook Municipal Code, such as detention or other appropriate site design features.

E. All subdivision proposals including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

F. The base flood elevation of proposed subdivisions in unnumbered A zones (flood hazard areas without base flood elevations determined) shall be established through an engineering study by the applicant. The minimum finished flood elevations for all structures shall be two feet (2') above the base flood elevation so established.

G. All lots within a subdivision shall have a buildable area at least two feet (2') above the base flood elevation sufficient to construct a building allowed in the zoning district. The building setback from the stream bank shall be the width of the special flood hazard area, or fifty feet (50'), whichever is greater.

H. All streets within the subdivision shall have a pavement elevation that is at least two feet (2') above the base flood elevation.

I. Floodplain Modifications: Any proposals for modifications of the special flood hazard area shall be accompanied by an application for a conditional letter of map revision (CLOMR), including fees, for submittal to FEMA for approval. The developer shall also be responsible for submitting an application for a letter of map revision (LOMR), including fees, upon approval of the CLOMR and completion of the proposed construction of the floodplain modifications. No construction on the subdivision infrastructure (including grading) shall be permitted until the CLOMR has been approved by FEMA and no structures (including buildings and residences) shall be approved for construction until the LOMR has been approved by FEMA. Any proposal for floodplain modification shall comply with the following design criteria:

1. There shall be no increase (rise) in the floodway elevation over the effective FIS. No rise shall be defined as an increase of one one-hundredth of a foot (0.01') or less.

2. There shall be no loss of valley storage below the base flood elevation. Any fill within the special flood hazard area shall be offset with compensatory storage within the effective hydrologic reach.

3. Channel velocities shall not be increased over existing conditions. No increase shall be designed as one percent (1 %) or less.

15.40.340 Areas of shallow flooding.

Located within the areas of special flood hazard established in Section 15.40.210 are areas designated as shallow flooding zones. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may not be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

A. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least two feet (2') above the depth number specified in feet on the community's FIRM (at least four feet (4') if no depth number is specified);

B. All new construction and substantial improvements of nonresidential structures:

1. Shall have the lowest floor (including basement) elevated above the highest adjacent grade at least two feet (2') above the depth number specified in feet on the community's FIRM (at least four feet (4') if no depth is specified);

2. Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy;

C. A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in Section 15.40.290 (A) (1), are satisfied;

D. Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

15.40.350 Floodways.

Located within areas of special flood hazard established in Section 15.40.210 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provision shall apply:

A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 15.40.310 through 15.40.350.

C. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the city may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the city first completes all of the provisions required by 44 CFR 65.12)".

**SECTION II
PENALTY CLAUSE**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00).

**SECTION III
CUMULATIVE CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Benbrook, Texas (1985), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION IV
SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION V
SAVINGS CLAUSE**

All rights and remedies of the City of Benbrook are expressly saved as to any and all violations of the provisions of the Benbrook Municipal Code (1985), as amended, or any ordinances regulating platting or subdivisions which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION VI
PUBLICATION IN PAMPHLET FORM**

The City Secretary of the City of Benbrook is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the productive thereof, as provided in Section 3.10 of the Charter of the City of Benbrook.

**SECTION VII
ENGROSSMENT AND ENROLLMENT**

The City Secretary of the City of Benbrook is hereby directed to engross and enroll the Ordinance by copying the caption, penalty clause, and effective date clause of this ordinance in the minutes of the City Council and by filing the Ordinance in the Ordinance records of the City.

**SECTION VIII
PUBLICATION IN OFFICIAL NEWSPAPER**

The City Secretary of the City of Benbrook is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this ordinance for two (2) days in the official newspaper of the City of Benbrook, as authorized by Section 52.013 of the Local Government Code.

**SECTION IX
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

PASSED AND APPROVED the 2nd day of July, 2009.

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary

ADOPTED: _____

EFFECTIVE: _____



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 07/02/09	REFERENCE NUMBER: G-1853	SUBJECT: Resolution to Authorize Offer to Sell City-owned Real Property at 913 Timberline Drive	PAGE: 1 of 1
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In November 2005, City Council authorized the purchase of 913 Timberline Drive. The house was classified as a repetitive loss property by the National Flood Insurance Program, meaning that it had sustained two or more flood insurance claims of \$1,000 or more. The property also contained a retaining wall that encroached illegally into Dry Branch Creek. In addition, the City's drainage plan required enlargement of the inlet at the front of the property to adequately drain water from the street. Finally, the property was one of only two houses not removed from the 100-year floodplain by the Timber Creek Channel project in 2006.

The purchase was completed in January 2006 and the house was demolished in March 2006. Improvements were made to the creek and the storm drain inlet, and the building pad was elevated above the new 100-year flood level. On June 19, 2007, the City received the Letter of Map Revision based on Fill (LOMR-F) officially removing the building site from the 100-year flood plain.

In August 2007, the City Council authorized the sale of the vacant lot for redevelopment as a single-family residence using a sealed bid process, establishing a minimum bid of \$20,000 with the City retaining the mineral rights. Staff advertised the sale in the Fort Worth Star-Telegram twice as required by State law, with a bid opening scheduled for October 31, 2007. No bids were received. In January 2008, Staff asked the City Council to re-advertise the property, but the Council directed Staff to postpone action. Staff has continued to mow the property in the interim and has determined no other appropriate uses.

Recently, a resident has expressed interest in purchasing the property. State Law (Local Government Code §253.008) requires that real property be sold by sealed bids or by auction. Staff recommends advertising the sale of the vacant lot again in the near future and to maintain the minimum bid at \$20,000 (TAD appraises it at \$22,000.) Staff also requests authorization to expend additional funds to advertise the sale in other publications and to selected real estate companies.

RECOMMENDATION

Staff recommends that City Council adopt the resolution authorizing the sale of real property at 913 Timberline Drive (Lot 22, Block 16, Timber Creek Addition) by sealed bids, with a minimum bid of \$20,000 and that the City retain the mineral rights and direct Staff to publish notice of the sale and expend additional funds to market the sale.

SUBMITTED BY:	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY:
CITY MANAGER		CITY SECRETARY
		DATE:

RESOLUTION NO. 2009-08

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENBROOK, TEXAS:

That the City Manager is hereby authorized to publish notice to the general public that the City of Benbrook is offering to sell the following described City-owned real property for cash, and that sealed bids for purchase of the property may be submitted to the City:

Lot 22, Block 16 of the Timber Creek Addition of the Second Filing of Phase 2, City of Benbrook, Texas, known by street address as 913 Timberline Drive.

Such notice shall be published and sealed bids received in accordance with Section 272.001 of the Local Government Code. The notice shall state that bids less than \$20,000.00 will not be considered and that the deed to the purchaser will reserve all mineral rights to the City of Benbrook.

Adopted this 2nd day of July, 2009.

ATTEST:

Joanna King, City Secretary

Jerry B. Dittrich, Mayor



City of Benbrook

CITY COUNCIL COMMUNICATION

DATE: 07/02/09	REFERENCE NUMBER: G-1854	SUBJECT: Authorize Funding for Pedestrian Bridges for Twilight Park and Timbercreek Park	PAGE: 1 of 2
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Earlier this year, City Council requested that Staff evaluate a pedestrian bridge across Plantation West Creek in Twilight Park. The recently completed drainage project makes it impossible to cross the creek from one side of Twilight Park to the other.

As a reminder, a similar condition also exists at Timbercreek Park. A 20-foot pedestrian access easement was platted in 1988 to provide access to Timbercreek Park from Dogwood Drive to the north, but is impassible across Timber Creek.

Staff investigated a number of options for inexpensive bridges, such as used bridges. Staff could not identify an viable option that provided a financial advantage or met safety standards. As a result, Staff recommends installation of new prefabricated bridges on professionally-designed and constructed abutments. The City Engineer estimates that each bridge can be designed and constructed for approximately \$75,000.

FINANCING

No funds are included in this year’s budget for the project; however, \$23,600 in Park Dedication Funds is available that could be used for the Twilight Park Bridge and \$30,800 is available for use on the Timbercreek Park Bridge. The Park Dedication Funds are separated and earmarked based on the Planning Area the funds are dedicated. For the Twilight Park bridge, approximately \$51,400 would remain unfunded and for the Timbercreek Bridge, approximately \$44,200 would remain unfunded, for a total of \$95,600. The funds could come from unallocated reserves. Building both bridges at the same time may provide a small cost savings.

Staff is also investigating the potential for funding from the gas well drilling industry for the Twilight Park Bridge after a company contacted the City to request use of the Plantation West Creek channel as a route for a fresh water pipeline. These negotiations are in the early stages, are ongoing, and would ultimately require City Council approval.

RECOMMENDATION

Staff requests that City Council provide direction for funding and construction by considering the following:

1. Authorize the expense from Park Dedication Funds (\$54,400) for both bridges with the remainder from unallocated reserves (\$95,600),
2. Designate one of the bridges for funding and construction, either:
 - a. Twilight Park, \$23,600 in Park Dedication Funds and \$51,400 in unallocated reserves, or

SUBMITTED BY: CITY MANAGER	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY: CITY SECRETARY
		DATE:

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- b. Timbercreek Park, \$30,800 in Park Dedication Funds and \$44,200 in unallocated reserves
- 3. Postpone consideration pending continued negotiations with the gas well drilling industry for the Twilight Park Bridge.