

TOWN OF PROSPER
SUBDIVISION ORDINANCE

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1. AUTHORITY

These regulations shall be known and may be cited as the "Subdivision Ordinance" of the Town of Prosper, Texas.

1.1. General

These regulations shall govern every person, firm, association or corporation owning any tract of land within the Town Limits of the Town of Prosper and the Extraterritorial Jurisdiction ("ETJ") who may hereafter divide the same into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to said Town, or for laying out suburban lots or building lots, or any lots, streets, alleys, parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

1.2. Authority

These regulations are adopted under the authority granted by the laws of the State of Texas, including V.T.C.A., Local Government Code § 212.001 et seq., Regulation of Subdivisions, and V.T.C.A., Local Government Code § 42.001 et seq., Extraterritorial Jurisdiction of Municipalities.

1.3. Jurisdiction

Any owner of land located inside the Corporate Limits of the Town of Prosper or within its Extraterritorial Jurisdiction wishing to subdivide such land shall submit to the Town Council, or its designee, a plan of the subdivision which shall conform to the minimum requirements set forth in these regulations. A division of land which includes the subdivision of tracts into parts greater than five (5) acres, where each part has access and no Public Improvement is being dedicated, shall be exempt from these requirements.

Any owner subdividing land outside the Corporate Limits of the Town of Prosper, but within its Extraterritorial Jurisdiction shall submit a plan of subdivision to the Planning and Zoning Commission which shall conform to all applicable state statutes, including but not limited to Chapters 42, 43, 212, and 242 of the Texas Local Government Code and the minimum requirements set forth in these regulations, and which is subject to the approval of both.

1.4. Intent

The intent of these regulations are, among others:

- 1.4.1. To ensure that development of land and subdivisions shall be orderly and of such nature, shape and location that utilization will not impair the general welfare and to ensure against the dangers of fires, floods, erosion or other such menaces;
- 1.4.2. To provide proper utilities and services for adequate drainage, water supply, and disposal of sanitary and industrial waste and to preserve creeks;
- 1.4.3. To provide streets that ensure safe, convenient and functional systems for vehicular and pedestrian circulation;
- 1.4.4. To ensure adequate fire protection and adequate access and egress for fire, police and other emergency services;
- 1.4.5. To ensure access to adequate amounts of light and air;
- 1.4.6. To furnish adequate sites convenient to schools, parks, playgrounds and other community services, respecting topography and other existing conditions of the land and that adequate parks and open spaces as a result of the development are provided; and
- 1.4.7. To ensure that all subdivisions created and land developments are in keeping with the overall general welfare of the community.

- 1.5. **Annexation**
If the property is not within the Town limits of Prosper and the owner desires that it be annexed so as to be qualified to receive Town services, when available, and be afforded zoning protection, the owner must petition the Town for annexation through lawful annexation proceedings.
- 1.6. **Zoning Required**
Inside Town Limits, no plat application shall be accepted for filing or scheduled for processing unless the application is consistent with the zoning district regulations in which the property is located, or unless a complete application for consistent zoning is made simultaneously therewith.
- 1.7. **Certificates**
 - 1.7.1. Certification by a registered public surveyor, registered in the State of Texas, to the effect that the plat represents a survey made by him or under his direct supervision and that all the monuments shown thereon actually exist, and that their location, size and material are correctly shown.
 - 1.7.2. A certificate of ownership and dedication, of a form approved by the Town Attorney, of all streets, alleys, parks, open spaces and public ways to public use forever, signed and acknowledge before a notary public by the owner and any and all lien holders of the land, and a complete and accurate description of the land subdivided and dedications made.
 - 1.7.3. A certificate, signed by the Town tax assessor, stating that all taxes and assessments then due and payable on the land contained within the subdivision have been paid.
- 1.8. **Approval Required**
Unless and until any plat, plan or replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land; and it shall be unlawful for any official of said Town to issue any permit of such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by such Town. No building permits will be issued for the construction of any building on any unplatted land within the Town of Prosper, however, minor repair permits may be issued. When additions, alterations, or repairs within any twelve-month period exceed fifty (50) percent of the value of an existing building or structure on previously unplatted property, the land upon which the building or structure is located shall be platted in accordance with the provisions of this Ordinance.
- 1.9. **Complete Application**
No application for approval or amendment of a subdivision plat, including without limitation an application for approval or amendment of a Preliminary Plat, Final Plat, replat, amending plat, plat vacation or conveyance plat or other approval authorized by these subdivision regulations, shall be accepted for filing nor shall such application be scheduled for consideration by the Town or otherwise processed unless the completed application is accompanied by all documents and fees required by and prepared in accordance with the requirements of the Town's Zoning Ordinance and this Subdivision Ordinance. The acceptance or processing by any Town official of an application to approve or amend a subdivision plat prior to the time a complete application is submitted hereby is deemed to be null and void and, upon discovery, shall be grounds for denial or revocation of such plat application. A typographical error shall not constitute an incomplete application. The

applicant will be notified of, and the reasons for, such denial or revocation within fifteen (15) business days of the official application date.

1.10. Compliance

No person shall create a subdivision of land within the corporate limits of the Town or within the extraterritorial jurisdiction thereof without complying with the provisions of these regulations. All plats and subdivisions of any such land shall conform to the rules and regulations set forth herein. No plat shall be filed or recorded, and no lot in a subdivision inside the corporate limits of the Town of Prosper or within its extraterritorial jurisdiction shall be improved or sold, until the plat has been approved by the Town of Prosper.

2. PURPOSE

The purpose of these controls is to provide for the orderly, safe and healthful development of the area within the Town and within the area surrounding the Town and to promote the health, safety, morals and general welfare of the community by securing adequate provisions for transportation, traffic, light, air, recreation, preserving natural features, drainage, water, sewage and other facilities.

3. DEFINITIONS

3.1 Abutting: Adjacent, joining at a boundary.

3.2 Administrator: That Town employee specifically appointed by the Town Council and charged with administering the regulations and provisions of this Ordinance.

3.3 Alley: A minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

3.4 Applicant: The Property Owner or duly designated agent of the Property Owner of land for which approval of a Final Plat has been requested for residential development.

3.5 Base Flood Plain: The flood having a one percent (1%) chance of being equaled or exceeded in any given year, based upon a fully developed watershed and the Town's criteria to accommodate a 100-year storm in a Major Creek.

3.6 Building: Any enclosed residential structure designed or intended for the support, enclosure, shelter or protection of persons.

3.7 Building Setback Line: The line within a property defining the minimum horizontal distance between a building and the adjacent street line.

3.8 Commission: The Planning and Zoning Commission of the Town. If there be no Commission appointed, the Town Council shall have full authority to perform any tasks designated herein to be performed by the Commission.

3.9 Crosswalk Way: A public right-of-way, six feet or more in width between property lines, which provides pedestrian circulation.

3.10 Cul-de-sac: A street having but one outlet to another street, and terminated on one opposite end by a vehicular turn-around.

3.11 Dead-End Street: A street, other than a cul-de-sac, with only one outlet.

3.12 Dwelling: Any building, or portion thereof, designed exclusively for residential occupancy and containing one (1) or more dwelling units.

3.13 Dwelling Unit: One (1) or more rooms arranged, designed or used as separate living quarters for an individual family, which contains kitchen facilities (only one (1) per dwelling unit permitted), including at least a stove or cooking device and permanently installed sink, plus bathroom facilities.

- 3.14 Easement: Easement shall mean a right granted for the purpose of limited public or semi-public use across, over or under private land.
- 3.15 Extraterritorial Jurisdiction: Extraterritorial Jurisdiction shall mean that area of land lying outside and adjacent to the Corporate Limits of the Town of Prosper over which the Town of Prosper has legal control as set forth in Chapter 42 of Local Government Code or otherwise.
- 3.16 Final Plat: Final Plat or Plat is a complete and exact subdivision plan submitted to the Town for consideration for final approval and which, if approved (approved plat or file plat), will be submitted to the County Clerk of Collin or Denton County for recording.
- 3.17 Flood: A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.
- 3.18 Floodway: The channel of a watercourse and portions of the adjoining flood plain that are reasonably required to carry and discharge the regulatory flood.
- 3.19 Habitat Study: A study in which the main purpose is the identification and protection of declared, critical habitat for threatened or endangered species and habitat used for nesting by birds listed in the Migratory Bird Treaty Act (MBTA).
- 3.20 Key Lot: Key lot shall mean a corner lot that is designed such that the lots located directly behind it faces the side street of the corner lot and are not separated by an alley.
- 3.21 Lot: An undivided tract or parcel of land having frontage on a public street and which is, or in the future may be offered for sale, conveyance, transfer or improvement; which is designated as a district and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed for record.
- 3.22 Major Creek: The Major Creeks are commonly known as Button Branch, Doe Branch, Gentle Creek, Rutherford Branch and Wilson Creek. Each Major Creek begins at its headwater (as determined by the Federal Emergency Management Agency (FEMA) and/or the U.S. Army Corps of Engineers) as is generally depicted on Flood Insurance Rate Maps that can be obtained from FEMA.
- 3.23 Park Board: The park and recreation planning board or its successor as appointed by the Town Council.
- 3.24 Park Facilities: Land and/or facilities used or to be used as a community, neighborhood or linear park, regardless of location, including both the acquisition of such land, the construction of improvements thereon and the expenditure of funds incidental thereto, including but not necessarily limited to planning, engineering and design of the park and improvements, utility relocation, provision of improvements, utility relocation, provision of pedestrian and vehicular access thereto and purchase of equipment, the need for which are attributable to new residential development.
- 3.24.1. Community Park shall mean a park of approximately thirty (30) acres, serving an area two to three miles in diameter. Community parks may typically contain lighted athletic facilities for more active play purposes, such as ball fields for football, softball, baseball and soccer, and a recreation center or swimming pool. These parks may be located adjacent to existing or proposed greenbelt areas and proposed school sites.
- 3.24.2. Linear Park shall mean a park or trail to be used primarily for passive recreation and connecting residential neighborhoods and Park Facilities to one another and to public facilities and services.
- 3.24.3. Neighborhood Park shall mean a park of approximately seven and one half (7.5) to ten (10) acres, serving an area one to two miles in diameter. Neighborhood parks should be designed to service a specific neighborhood area and may

include playground apparatus and other space for active recreational purposes, along with some areas for passive use. Whenever possible, neighborhood parks should be located adjacent to existing or proposed greenbelt areas and proposed school sites.

- 3.24.4 Town Park shall mean a park of no less than forty (40) acres, serving all residents of the Town. Town parks will typically serve both passive and active use. Active use may include lighted athletic facilities for play purposes, such as ball fields for football, softball, baseball and soccer, and a recreation center or swimming pool. Passive areas may contain trails, wildflower areas, wetlands, picnic pavilions, and an amphitheatre. These parks may be located adjacent to existing or proposed greenbelt areas.
- 3.25 Park Improvement Program: The adopted plan, as may be amended from time to time, which identifies those Park Facilities and their costs, for a period of at least five (5) years, which are to be financed in whole or in part through the imposition of park fees pursuant to this Ordinance. The plan shall contain only those facilities which are anticipated to be acquired or developed within the period covered by the plan.
- 3.26 Parkway: That portion of right-of-way that is between the curb and the right-of-way line.
- 3.27 Pavement Width: The portion of a street available for vehicle traffic where curbs are laid. "Pavement width" is the portion between the back of curbs.
- 3.28 Person: Any individual, association, firm, corporation, governmental agency, or political subdivision.
- 3.29 Planned Development: A development provided for by the Zoning Ordinance of Prosper wherein certain yards, areas and related standards may be varied and a variety of land uses associated on a tract, the plan of which is subject to approval by the Planning and Zoning Commission and the Town Council.
- 3.30 Preliminary Plat: Preliminary Plat shall be any plat of any lot, tract or parcel of land that is not to be recorded of record, but is only a proposed division of land for review and study by the Town and used by the Subdivider in development of Final Plat and construction plans for the property.
- 3.31 Property: A legally described parcel of land capable of development.
- 3.32 Property Owner(s): Any person, group of persons, firm or firms, corporation or corporations, or any other entity have a proprietary interest in the land on which a Final Plat for residential development has been requested.
- 3.33 Public Improvement: Any street, alley, park, public area, dedication, locations for utilities, easements, right-of-way, fire lanes or other emergency access area intended for public use or benefit.
- 3.34 Regulatory Flood: A flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular stream. The regulatory flood generally has flood frequency of approximately 100 years as determined from an analysis of frequency of floods on a particular stream and other streams in the same general region.
- 3.35 Regulatory Flood Protection Evaluation: The evaluation of the regulatory flood plus 24 inches of freeboard to provide a safety factor.
- 3.36 Replanning: Replanning is the alteration of any part or all of the boundaries of any lot, block or tract of a previously platted subdivision.

- 3.37 Residential or Residential Development: The development of any property for a dwelling or dwellings, other than motels, hotels, shelter used temporarily for transients and other similar uses, as indicated by an application for a building permit.
- 3.38 Shall, May: The word “shall” is always mandatory. The word “may” is merely directory.
- 3.39 Street: A public right-of-way, however designated, which provides vehicular access to adjacent land.
- 3.42.1 Arterial Street primarily provides vehicular circulation to various sections of the Town.
- 3.42.2 Collector Street primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.
- 3.42.3 Marginal Access Street is parallel to and adjacent to an arterial street, and primarily provides access to abutting properties and protection from through traffic.
- 3.42.4 Minor Street is one used primarily for access to abutting residential property.
- 3.40 Street, Standard Width: That distance from back of curb to back of curb.
- 3.41 Subdivider or Developer: Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term “Subdivider” shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.
- 3.42 Subdivision: A division of any tract of land situated within the corporate limits, or within one mile of such limits, in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition of any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. “Subdivision” includes re-subdivision, but it does not include the division of land for agricultural purposes in parcels or tracts of five acres or more and not involving any new street, alley or easement of access.
- 3.43 Surveyor: A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by State statute to practice the profession of surveying.
- 3.44 Town: The Town of Prosper, Texas.
- 3.45 Town Council: Town Council of the Town of Prosper.
- 3.46 Town Engineer: A person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering and specifically appointed by the Town Council to such position.
- 3.47 Utility Easement: An interest in land granted to the Town, to the public generally, to a private utility corporation or to any one or more of the foregoing for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.
- 3.48 Vegetative Study: A study in which the main purpose is identification and consideration of unique vegetative communities that are important for conserving biotic diversity and are rare due to conversion to other land uses.
- 3.49 Wetland Study: A study in which the main purposes are to determine jurisdictional wetlands and to ensure compliance with Section 404 of the Clean Water Act and other applicable regulations of the U.S. Army Corps of Engineers.

3.50 Any office referred to in this Ordinance by title, means the person employed or appointed by the Town in that position, or the duly authorized representative of that person.

3.51 Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

4. SPECIAL PROVISIONS

4.1 Septic Tanks

4.1.1 No permit shall be issued by the Collin or Denton County Health Department or by the Town for the installation of septic tanks upon any lot in a subdivision for which a Final Plat has not been approved and filed for record, or upon any lot in a subdivision in which the standards are contained herein, referred to herein, or applicable under State or Federal Law have been complied with in full.

4.1.2 No permit shall be issued by the Collin or Denton County Health Department or by the Town for the installation of a septic tank(s) if adequate sewer service is or will be feasibly available within 200 feet of the property line of the lot to be sewered.

4.2 Other Permits

No building, repair, plumbing or electrical permit shall be issued by the Town for any structure on a lot in a subdivision for which a Final Plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.

4.3 Streets and Public Utility Services

The Town shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a Final Plat has not been approved and filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.

4.4 Public Utilities

The Town shall not sell or supply any water, gas, electricity, or sewage service within a subdivision for which a Final Plat has not been approved or filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.

4.5 Enforcement Initiation

On behalf of the Town, the Town Attorney or his/her designee shall, when directed by the Town Council of the Town of Prosper, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Ordinance or the standards referred to herein with respect to any violation thereof which occurs within the Town, within the extraterritorial jurisdiction of the Town as such jurisdiction as determined under the Municipal Annexation Act, or within any area subject to all or a part of the provisions of this Ordinance.

4.6 Existing Subdivisions Without a Recorded Plat

4.6.1 If any subdivision exists for which a Final Plat has not been approved, or in which the standards contained or referred to herein have not been complied with in full, the Town Council of the Town may pass a resolution, pertaining to any such subdivisions, reciting the fact of such noncompliance or failure to secure Final Plat approval, and reciting the fact that the provisions of the paragraphs in Section 4.1 to 4.4 will apply to the subdivision and the lots herein. Then, in that event, the Town Secretary shall cause a certified copy of such resolution to be filed in the deed records of the county or counties in which subdivision or part thereof lies. If full compliance and Final Plat approval are secured after the filing of such resolution, the Town Secretary shall file an instrument in the deed records of such county or counties stating that Section 4.1 to 4.4 no longer apply.

4.6.2 Provided, however, that the provisions of this Ordinance shall not be construed to prohibit:

4.6.2.1 The issuance of permits for any lots upon which residence building exists and was in existence prior to passage of this Ordinance.

4.6.2.2 The repair, maintenance, or installation of any street or public utility services for, to, or abutting any lot, the last recorded conveyance of which was prior to passage of this Ordinance and was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to the passage of this Ordinance.

4.7 Replatting or Amending Plats

The replatting or amending plat of any existing subdivision, or any part thereof, shall meet the requirements provided herein for a new subdivision. A certificate of correction may not be used to change or amend any plat.

4.8 Avigation Release

The Commission may require the execution of an avigation easement and/or release as a condition precedent to approval of a subdivision plat or building permit.

4.9 Acceptance & Maintenance of Streets (Ord. No. 07-022)

Final approval of a plat shall not be deemed an acceptance of the proposed dedication and shall not impose any duty upon the Town concerning the maintenance or improvement of any dedicated parts until the proper authorities of the Town shall have made actual appropriation of the same by entry, use, or improvement.

5.0 VARIANCES

It is the expressed intent of this Ordinance that all sections and parts shall be complied with except ONLY when the provisions of this Section are applicable. It is further the intent of this Ordinance that the granting of a variance shall not be a substitute for the amending of this Ordinance. No waiver of requirements is to be permitted unless specifically written in this Ordinance or its amendments. The Commission may recommend to the Town Council that a variance from these regulations be granted when, in its opinion, undue hardship, which is not self-imposed, will result from requiring strict compliance. In considering, recommending and granting a variance, either the Commission or the Town Council shall prescribe such conditions that it deems necessary or both bodies shall take into account, at least, the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

5.1 No variance shall be granted unless the Commission finds and recommends, and the Town Council concurs:

5.1.1 That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and

5.1.2 That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

5.1.3 That the granting of the variance will not be detrimental to the public health, safety or welfare, or injuries to other property in the area; and

5.1.4 That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the areas in accordance with the provisions of this Ordinance.

Such findings of the Commission and Town Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the meetings at which such variance is recommended and granted. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice served.

6.0 PRELIMINARY CONFERENCE

Prior to the official filing of a Preliminary Plat, the Subdivider should consult with and present a proposed plan of subdivision to the Town staff for comments and advice on the procedures, specifications, and standards required by the Town for the subdivision of land.

7.0 PRELIMINARY PLAT AND ACCOMPANYING DATA

7.1 General

The Subdivider shall cause to be prepared a Preliminary Plat by a surveyor or engineer in accordance with this Ordinance.

7.2 Time for Filing and Copies Required

The Subdivider shall file twelve (12) blue or black line copies of the plat together with the original with the Commission at least thirty (30) days prior to the date at which formal application for the Preliminary Plat approval is made to the Commission.

7.3 Filing Fees

Filing fees shall be as set forth in Town Ordinance No. 02-33, as it exists or may be amended, establishing a comprehensive fee schedule. No action by the Commission shall be valid until filing fee has been paid. This fee shall not be refunded should the Subdivider fail to make formal application for Preliminary Plat approval or should the plat be disapproved.

7.4 Formal Application

Formal application for Preliminary Plat approval shall be made by the Subdivider in writing to the Town staff.

7.5 Form and Content of Application

The plat shall be drawn on sheets 24 inches wide and 36 inches long, and shall be drawn to a scale of 100 feet to one (1) inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. A Phasing Plan shall be attached to the plat.

The plat shall show the following:

7.5.1 Names and addresses of the Subdivider, record owner, engineer and/or surveyor.

7.5.2 Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similarly to the name of any other subdivision located within the Town or within two miles of the Town.

7.5.3 Names of abutting subdivisions and the owners of abutting parcels of unsubdivided land, whether or not abutting properties are platted and the listing of surrounding land uses.

7.5.4 Description, by metes and bounds, of the subdivisions.

7.5.5 Primary control points or descriptions, and ties to such control points to which all dimensions, angles, bearings, block numbers and similar data shall be referred.

- 7.5.6 Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.
- 7.5.7 Existing sites as follows:
 - 7.5.7.1 The exact location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision, intersection or abutting with its boundaries or forming such boundaries.
 - 7.5.7.2 The exact location, dimensions, description and name of all existing or recorded residential lots, parks, public areas, permanent structures and other sites within or abutting with the new subdivision.
 - 7.5.7.3 The exact location, dimensions, description, and flow line of existing water courses and drainage structures within the subdivision or on abutting tracts.
 - 7.5.7.4 Regulatory flood elevations and boundaries of flood prone areas, including floodways, if known.
 - 7.5.7.5 Approximate location of natural features, vegetation, water bodies and drainage ways.
- 7.5.8 The exact location, dimensions, description and name of all proposed streets, alleys, parks, other public areas, dedications, easements or other rights-of-way, blocks, lots and other sites within the subdivision.
- 7.5.9 A preliminary plan for water utilities, which may include onsite sewage disposal systems, or a central sewer system, including disposal sites for lands subject to flooding or sanitary sewers with grade, pipe size, and points of discharge.
- 7.5.10 A preliminary plan of the drainage system with grade, pipe size, and location of outlet.
- 7.5.11 A preliminary plan for proposed fills or other structure-elevation techniques, levees, channel modifications, and other methods to overcome flood or erosion-related hazards.
- 7.5.12 Date of preparation, scale of plat and north arrow.
- 7.5.13 Topographical information at two foot contours.
- 7.5.14 A number or letter to identify each lot or site and each block.
- 7.5.15 Front building setback lines on all lots and sites; side yard building setback lines at street intersections and crosswalk ways.
- 7.5.16 Location of Town limits line, the outer border of the Town's extraterritorial jurisdiction, and zoning district boundaries, if they traverse the subdivision, form part of the boundary of the subdivision, or are abutting to such boundary. This shall include the identity of a county line or school district line on the subject property.

7.5.17 Vicinity sketch or map at a scale of not more than 500 feet to an inch which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity, the general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric and sanitary sewer connections by arrows.

7.6 Processing and Preliminary Plat

7.6.1 The Town staff shall check the Preliminary Plat as to its conformity with the master plan, major street plan, land use plan, transportation plan, zoning districts and the standards and specifications set forth herein or referred to herein, or other applicable policies and regulations.

7.6.2 Pertinent copies of the Preliminary Plat data shall be submitted to the Town Engineer, and he/she shall check the same for conformity with the standards and specifications contained or referred to herein. These reviews will be performed at the Developer's expense.

7.6.3 The Town Engineer and Town staff shall return the Preliminary Plat data to the Commission with suggestions as to modifications, additions or alterations of such plat data.

7.6.4 Within thirty (30) days after the Preliminary Plat is formally filed, the Commission shall conditionally accept or reject such plat or conditionally accept it with modifications.

7.6.5 Conditional acceptance of a Preliminary Plat by the Commission shall be deemed an expression of acceptance of the layout submitted on the Preliminary Plat as a guide to the installation of streets, water, sewer and other required improvements and utilities and to the preparation of the Final Plat. Conditional acceptance of a Preliminary Plat shall not constitute nor require acceptance of the Final Plat.

7.6.6 Conditional acceptance of a Preliminary Plat shall be effective for two years unless reviewed by the Commission in the light of new or significant information which would necessitate a revision of the Preliminary Plat. If the Commission should deem changes in a Preliminary Plat to be necessary, it shall so inform the Subdivider in writing.

7.6.7 If no development has occurred, any Preliminary Plat accepted by the Commission shall expire and become null and void two (2) years following the conditional acceptance, unless an extension of time is applied for prior to expiration and granted by the Commission. The Commission may, upon the application of the Subdivider, extend the conditional acceptance of the Preliminary Plat up to six (6) months.

8. FINAL PLAT

8.1 Form and Content of Application

8.1.1 The Final Plat and accompanying data shall conform to the Preliminary Plat as conditionally approved by the Commission, incorporating any and all changes, modifications, alterations, corrections and conditions imposed by the Commission. If significant changes have been made, a new Preliminary Plat shall be submitted.

- 8.1.2 The Final Plat shall be in digital format accompanied by a hard copy plotted on standard bond. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. Two additional mylars shall be submitted on sheets to specifically meet the requirements of Collin and/or Denton County for Final Plat recording.
- 8.1.3 The Final Plat shall be submitted in such number as is required by the Commission, and shall contain all of the features required for Preliminary Plats in Section 7 above, and it shall be accompanied by site improvement data bearing the seal of an engineer and detailed cost estimates.
- 8.1.4 The Final Plat and the accompanying site improvement data and detailed cost estimates shall be approved by the Town Engineer.
- 8.1.5 In addition to the various requirements for the Preliminary Plat, the Final Plat shall also include the following:
 - 8.1.5.1 The exact location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision, intersection or abutting with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree of curvature, tangent distance and length of all curve where appropriate.
 - 8.1.5.2 The exact location, dimensions, description and name of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, and other sites within the subdivision with accurate dimensions, bearing or deflecting angles with radii, area, and central angles, degree of curvature, tangent distance and length of all curves where appropriate.
 - 8.1.5.3 A Landscape Plan and a Lighting Plan.
- 8.1.6 When filed, the Final Plat shall be accompanied by the following site improvement data, and all plans and engineering calculations shall bear the seal and signature of an engineer.
 - 8.1.6.1 Streets, Alleys, Sidewalks, Crosswalk Ways & Monuments.
 - 8.1.6.1a Five copies of plans and profiles of all streets, alleys, sidewalks, crosswalk ways, and monuments.
 - 8.1.6.2 Sanitary Sewers
 - 8.1.6.2a Five copies of the proposed plat, showing two foot contours and the proposed location and dimensions of existing sanitary sewer lines.
 - 8.1.6.2b Five copies of plans and profiles of proposed sanitary, sewer lines, indicating depths and grades of lines.
 - 8.1.6.2c When a separate sewer system or treatment plant is proposed, five copies of proposed plans and specifications with proof of submittal to TEQC.

8.1.6.3 Water Lines

8.1.6.3a Five copies of the proposed plat showing two foot contours and the location and size of existing water lines and fire hydrants.

8.1.6.3b Five copies of plans and profiles of all proposed water lines and fire hydrants, showing depths and grades of the lines.

8.1.6.3c When a separate water system is planned, or when connection is proposed to a water system other than to the Town water system, five copies of the plans, including fire hydrants, of the proposed system.

8.1.6.4 Storm Drainage

8.1.6.4a Five copies of the proposed plat, indicating two foot contours. All street widths and grades shall be indicated on the plat, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches and storm sewers, and at all points in the street at changes of grade or where the water enters another street or storm sewer or drainage ditch. Drainage easements shall be indicated on the plat.

8.1.6.4b A general location map of the subdivision showing the entire watershed.

8.1.6.4c Calculations showing the anticipated storm water flow, including water shed area, percent runoff, and time of concentration. When a drainage ditch or storm sewer is proposed, calculations shall be submitted showing basis for design.

8.1.6.4d When a drainage channel or storm sewer is proposed, complete plans, profiles, and specifications shall be submitted, showing complete construction details.

8.1.6.4e When conditions upstream or downstream from a proposed channel or storm sewer do not permit maximum design flow, high water marks based on a one hundred year frequency, shall be indicated based on existing conditions.

8.1.7 The Final Plat shall also include the following:

8.1.7.1 Owner's acknowledgment of the dedication to public use of all Public Improvements, including streets, alleys, parks, and other public places shown on such Final Plat;

8.1.7.2 The certification of the Commission that the Final Plat conforms to all requirements of the subdivision regulations of the Town of Prosper;

8.1.7.3 A statement from the Commission that the Final Plat has been approved by such Commission.

8.1.7.4 The certification of the surveyor responsible for surveying the subdivision area, attesting to its accuracy;

8.1.7.5 A certification by the surveyor responsible for the preparation of the Final Plat and the engineer for supporting data, attesting to its accuracy.

8.2 Processing of Final Plat (Ord. No. 07-022)

8.2.1 As soon as practical after the Subdivider is notified of the acceptance of the Preliminary Plat, his engineer shall submit to the Commission application for the Final Plat of the subdivision or portion thereof.

8.2.2 No Final Plat will be considered unless a Preliminary Plat has been submitted. However, if an accepted plat has been duly recorded and the Subdivider wishes to increase the size of the lots by combining two or more lots or by combining one lot with a portion of the adjacent lot in such manner that no portion of a lot remains smaller than the original lots, no Preliminary Plat will be necessary.

8.2.3 When the Final Plat is submitted to the Town for acceptance, it shall be accompanied by the fees set forth in Town Ordinance No. 02-33, as it exists or may be amended, establishing a comprehensive fee schedule, and the following:

8.2.3.1 A construction fee equal to 3.0% of the cost of the construction (as determined by the Town Engineer) including water, sewer, paving and drainage facilities shall be paid to the Town prior to the construction of any facilities.

8.2.3.2 Proof that all outstanding review fees have been paid.

8.2.3.3 All materials listed in the Town's Annexation, Zoning, and Development Manual, including but not limited to copies of recorded plans, maintenance bond, affidavit of construction costs, and escrows for required improvements.

8.2.4 Within thirty (30) days after the Final Plat is formally filed, the Commission and Town Council shall accept or reject such plat.

8.2.5 After the Final Plat has been accepted and the Subdivider has constructed all the required improvements and such improvements have been accepted, and a maintenance bond filed as hereinafter provides, or after the Final Plat has been accepted and the Subdivider has filed the security and maintenance bond hereinafter provided, the Subdivider shall cause the Final Plat to be recorded with the County Clerk or clerks in the county or counties in which the subdivision lies.

9.0 GUARANTEE OF PERFORMANCE

9.1 Construction Prior to Final Plat Acceptance (Ord. No. 07-022)

If under Section 8 of this Ordinance the Subdivider chooses to construct the required improvements prior to recordation of the Final Plat, all such construction shall be inspected while in progress by the appropriate Town department(s), and must be approved upon completion by the Town.

9.2 Construction After Final Plat Acceptance (Ord. No. 07-022)

If pursuant to this Ordinance the Subdivider chooses to file security and maintenance bond in lieu of completing construction prior to Final Plat approval, he may utilize either of the

following methods of posting security. If the Subdivider chooses to file security, the plat shall not be approved unless the Subdivider has done one of the following:

9.2.1 Has filed with the Town a bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the Town, in an amount equal to the cost of the improvements required by this Ordinance as estimated by the Town Engineer, conditioned that the Subdivider will complete such improvement within two years after approval of such plat, such bond to be approved as to form and legality by the Town Attorney; or

9.2.2 Has placed on deposit in a bank or trust company selected by the Subdivider and approved by the Commission, in a trust account a sum of money equal to the estimated cost of all site improvements required by this Ordinance. The estimated cost of such improvement shall be the cost as estimated by the Town Engineer. Selection of the trustee shall be subject to approval by the Commission, and the trust agreement shall be approved as to form and legality by the Town Attorney.

9.3 Maintenance Bond (Ord. No. 07-022)

Each request for final acceptance shall be accompanied by a bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the Commission, in an amount equal to ten percent (10%) of the cost of the public improvements required as approved by the Town, conditioned that the Subdivider will maintain such improvements in good condition for a period of two (2) years after final acceptance of the completed construction by the Town, as provided in Section 9.4 of this Section. Such bond shall be approved as to form and legality by the Town Attorney.

9.4 Construction Acceptance (Ord. No. 07-022)

The appropriate Town department(s) shall observe the construction of the improvements while in progress, shall inspect such improvements upon completion of construction. After final inspection, the Town shall notify the Subdivider in writing as to his acceptance or rejection of the construction. The Town shall reject such construction only if it fails to comply with the standards and specifications contained herein or otherwise existing. If the Town rejects such construction, the Town Attorney shall, on direction of the Town, proceed to enforce the guarantees provided in this Ordinance. If the Town accepts the construction, the final acceptance certificate stating that the requirement standards for the Town of Prosper have been met and that the public improvements and dedications have been approved, shall be given to the Subdivider.

9.5 Extension

Where good cause exists, the Commission may extend the period of time for completion under this Section 9 for an additional period of time not to exceed one year if the Subdivider has not completed the required site improvements or completed such improvements in compliance with this Ordinance.

No such extension shall be granted unless security as provided in this Section 9 has been provided by the Subdivider covering the extended period of time.

10.0 GENERAL REQUIREMENTS AND DESIGN STANDARDS

10.1 Relations To Land Use

No Preliminary or Final Plat shall be approved by the Commission or ratified subsequently by the Town Council and no completed improvements shall be accepted by the Town unless they conform to the following standards and specifications:

10.1.1 Conformity with Comprehensive Plan

The subdivision shall be consistent with the adopted Comprehensive Plan and all applicable zoning regulations of the Town of Prosper and the parts thereof as amended from time to time. No subdivision design shall be approved that requires a change in zoning until a rezoning application that would allow such alteration is approved.

10.1.2 Re-Subdivisions

For any re-subdivision which requires a zoning change, the zoning change must be approved before the re-subdivision is considered.

10.1.3 Prohibition of Reserve Strips

No subdivision or addition showing reserve strips of landing controlling the access to public ways or adjoining properties will be approved either in whole or in part.

10.1.4 Observation of Construction Work

All construction work, such as street grading, street paving, storm sewers, curb and/or gutter, sanitary sewers or water mains performed by the owner, Developer, or contractor, shall be subject to observation during construction by the proper authorities of the Town and shall be constructed in accordance with the specifications approved by the Town Council and in accordance with the provisions of "Standard Specifications For Public Works Construction" prepared by the North Central Texas Council of Governments, which is on file in the Town Hall.

10.1.5 Town Standard Construction Details for Subdivisions

All subdivision construction shall comply with the latest edition of the International Residential Code for one and two dwelling residences and for Multi-Family the latest edition of the Uniform Building Code adopted by the Town Council.

After the proper Town authorities determine that completed improvements conform to the foregoing standards and specifications, said determination shall be submitted to the Town Council for review. The Town Council shall pass a resolution either accepting or rejecting said improvements. The Town Council may accept or reject any portion of all of said improvements and may impose any reasonable requirements or conditions in acceptance part or all of said improvements.

10.1.6 Conformance with Engineering Design Standards Ordinance (Ord. No. 06-34)

All street, water utility, and sanitary sewer utility construction shall be subject to and comply with the regulations contained within Engineering Design Standards Ordinance No. 06-27, as it exists or may be amended. In the event that the regulations contained within Ordinance No. 06-27 conflict with the regulations contained within this Ordinance, the regulations of Ordinance No. 06-27 shall prevail.

10.2 Streets

10.2.1 Street Layout

Adequate public streets shall be provided by the Subdivider and the arrangement, character, extent, width, grade, and location of each shall conform to the Comprehensive Plan and the Thoroughfare Plan of the Town. Streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to

the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood and shall be designed so as to discourage high-speed or through traffic.

10.2.2 Relation to Adjoining Street System

Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.

10.2.3 Projection of Streets

Where adjoining areas are not subdivided the arrangement of streets in the subdivision shall make provision for the proper projection or streets into such unsubdivided areas.

10.2.4 Street Jogs

Whenever possible, street jogs with center line offsets of less than 180 feet will not be approved.

10.2.5 Horizontal Alignment

10.2.5.1 Curvilinear streets shall be allowed and shall meet the following standards:

<u>Operating Speed of Street</u>	<u>Minimum Curve Radius</u>
20 MPH or less	200 feet
30 MPH	375 feet
35 MPH	550 feet
40 MPH	725 feet
50 MPH or more	1190 feet

10.2.5.2 The Town Council may approve local residential streets with a smaller radii than required above in special circumstances (consistent with the use of the street). In the case of such an approval the Developer shall pay the additional cost of installing water and sewer lines caused by smaller radii.

10.2.6 Vertical Alignment

Profile grades of streets and alleys shall be connected by vertical curves of a minimum length expressed as a multiple of the algebraic difference between the rates of grades, expressed in feet per hundred feet and the values shown as follows:

Multiple of Algebraic difference	Design Speed					
	20	25	30	40	50	60
Crest vertical curve	10	15	28	50	80	150
Sag vertical curve	15	20	35	50	70	100

10.2.7 Half Streets or Adjacent Streets

In the case of collector, minor, or marginal access streets, no new half-streets shall be platted.

10.2.8 Street Intersections

Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography.

10.2.9 Dead-End Streets

Dead-end streets shall be prohibited except as short stubs to permit future expansion.

10.2.10 Cul-De-Sacs

In general, cul-de-sacs shall not exceed 600 feet in length, and shall have a turnaround of not less than 80 feet in diameter and 100 feet ROW in residential areas, and a turnaround of not less than 100 feet in diameter and 120 feet ROW in commercial and industrial areas. (Ord. No. 07-032)

10.2.11 Marginal Access Streets

Where a subdivision has frontage on an arterial street, there shall be provided a marginal access street on both sides or on the subdivision side of the arterial street, if the arterial street borders the subdivision, unless the adjacent lots back up the arterial street, or unless the Commission determines that such marginal access streets are not desirable under the facts of a particular case for adequate protection of the lots and separation of through and local traffic. These streets shall not be alleys.

10.2.12 Streets on Comprehensive Plan

Where a subdivision embraces a street as shown on the Comprehensive Plan of the Town or Thoroughfare Plan of the County, such street shall be platted in the location and of the width indicated by the Comprehensive Plan or Thoroughfare Plan.

10.2.13 Minor Streets

Minor streets shall be laid out so as to discourage their use by through traffic.

10.2.14 Pavement Widths and Rights-Of-Way

10.2.14.1 Arterial streets shall have right-of-way width of at least 80 feet, with a pavement width of at least 48 feet.

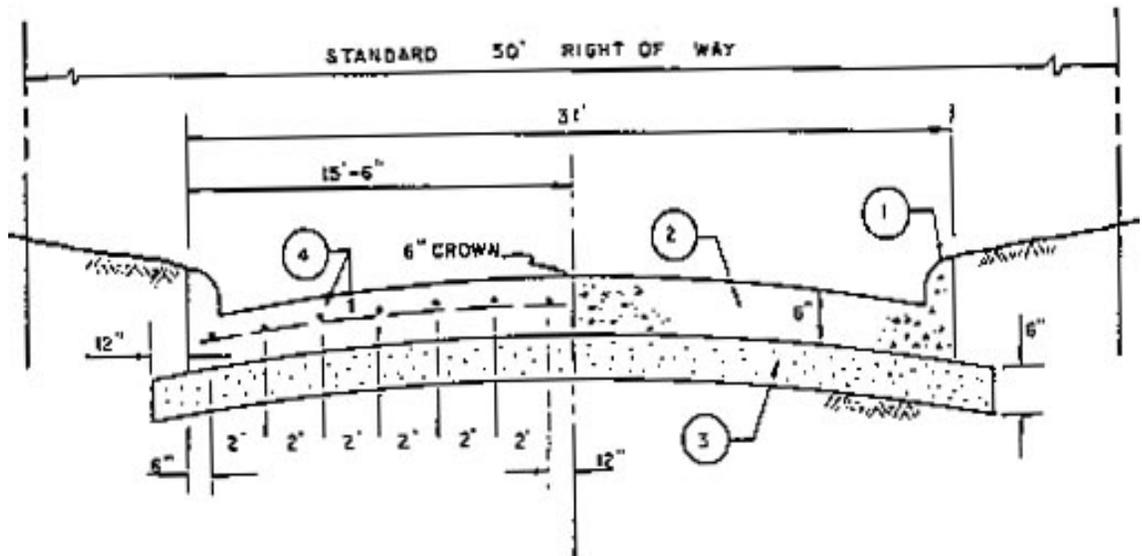
10.2.14.2 Collector streets shall have a right-of-way of at least 60 feet and a pavement width of at least 37 feet.

10.2.14.3 Minor streets shall have a right-of-way of at least 50 feet and a pavement width of at least 31 feet.

10.2.14.4 Major thoroughfares shall have a right-of-way of at least 160 feet and a pavement width of at least 60 feet.

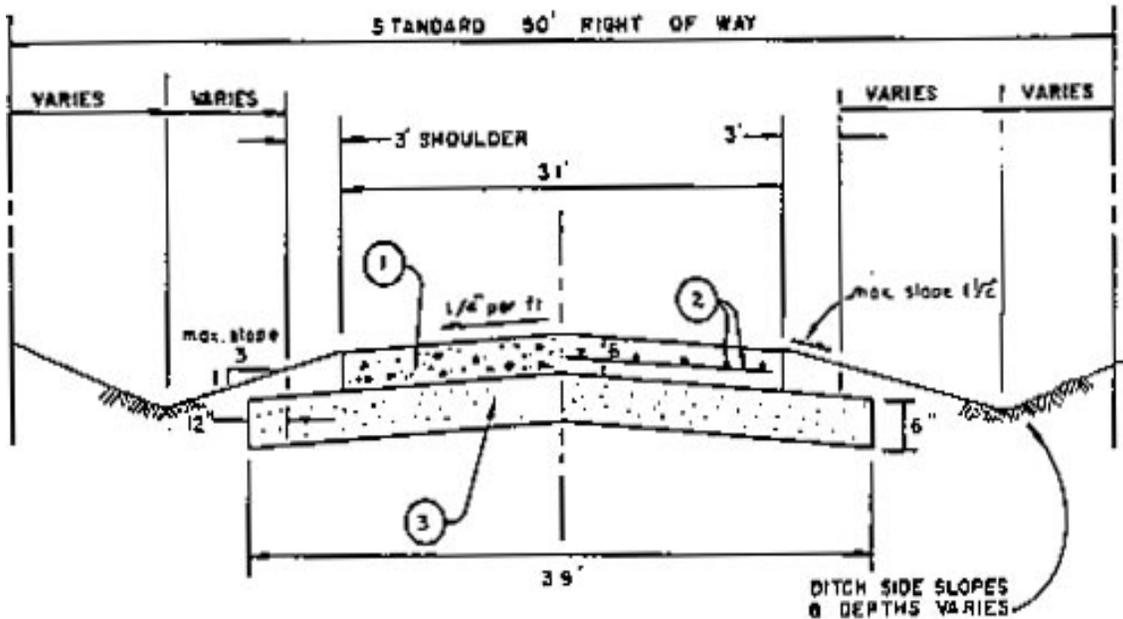
10.2.14.5 Residential and non-residential marginal access streets shall have a right-of-way width of at least 50 feet and pavement width of at least 31 feet. Estate lots shall have a right-of-way width of at least 60 feet with 31 feet pavement and bar-ditch type drainage.

10.2.15 Typical Street Section(s) - See Exhibits on the following pages.



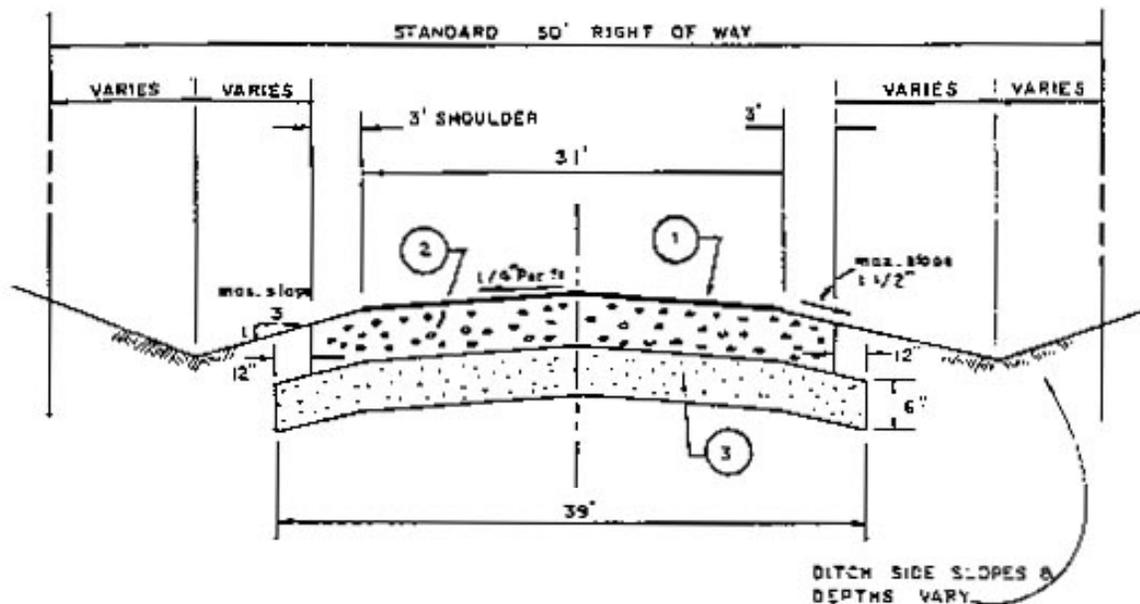
1. 6 inch Mountable Integral Curb
2. 3500 psi concrete at 28 days
3. 6 inch thick reinforced concrete pavement laid on a 6 lime (7%) stabilized subbase. Cement content of not less than 5 sacks per cubic yard
4. No. 3 Bars on 24inch centers. Both ways.

RESIDENTIAL SUBDIVISION
(LESS THAN 0.5 ACRE LOTS)



1. 3500 psi concrete @ 28 days
2. No. 3 Bars on 24 inch centers. Both Ways
3. 6 inch thick reinforced concrete pavement laid on a 6 inch lime (7%) stabilized subbase. Cement content of not less than 5 sacks per cubic yard.
4. In areas where the street paving does not have curb sections, and bar ditch drainage will exist, the right-of-way shall be 60 feet in width.

ESTATE SUBDIVISION
(BETWEEN 0.5 - 1.0 ACRES/LOTS)



1. The surface course shall be constructed of either of the following options:
 - (1) Two course asphalt treatment, 31 feet wide.
 - (b) Two (2) inches of hot mix asphaltic concrete 31 feet wide.
2. The base shall be constructed from one of the following options:
 - (2) Ten (10) inches native Collin and Denton County white rock compacted to 95% Standard Proctor density.
 - (b) Eight (8) inches native Collin and Denton County white rock with 2% hydrated lime compacted to 95% Standard Proctor density.
 - (c) Six (6) inches of flexible base (SDHPT specifications) compacted to 95% Standard Proctor density.
3. 7% lime stabilized subgrade of a pi less than 15.
4. Compacted 95% Modified Proctor density

ESTATE SUBDIVISION
(BETWEEN 1.0 - 100 ACRES/LOTS)

10.2.16 Street Grades

- 10.2.16.1 Local streets may have a maximum grade to meet ADA compliance.
- 10.2.16.2 All streets must have a minimum grade of at least five-tenths of one (0.5) percent.
- 10.2.16.3 Centerline grade changes with an algebraic difference of more than two (2) percent shall be connected with vertical curves of sufficient length to provide a minimum of six hundred (600) feet sight distance on major streets; four hundred (400) feet sight distance on minor streets and local residential streets.
- 10.2.16.4 Vertical curve shall be required to fit engineering standards.
- 10.2.16.5 Wherever a cross slope is necessary or desirable from one curb to the opposite curb, such cross slopes shall be ADA compliant.

10.2.17 Street Construction

10.2.17.1 Pavement and Right-of-Way Width

All streets shall be paved with reinforced concrete paving with mountable integral curb and gutter, and shall conform in width and section to the thoroughfare plan of the Town. Right-of-way width shall be measured between front lot lines and pavement width shall be measured from back of curb. Except as provided hereinafter, no street right-of-way shall be less than fifty (50) feet and no street pavement shall be less than thirty-one (31) feet.

10.2.17.2 Additional R-O-W Requirements

Additional right-of-way shall be defined as right-of-way greater than that required by this Ordinance, as it currently exists or may be amended. Additional right-of-way shall be provided as follows and shall be shown on the plat as "right-of-way dedicated for landscaping and screening purposes only" to exclude franchise utilities from this area.

10.2.17.2a An average of ten feet (10') of additional right-of-way shall be dedicated for lots that back or side to a street with a right-of-way width greater than eighty feet (80').

10.2.17.2b An average of fifteen feet (15') of additional right-of-way shall be dedicated for lots backing to a street with a right-of-way width of sixty feet (60') to eighty feet (80').

10.2.17.3 Residential Estate Subdivision

For estate subdivision as herein defined, the Town Council may allow variance to these regulations to provide for a lesser pavement and right-of-way width, and for the elimination of the requirement for curb and gutter as long as emergency access is achievable.

10.2.17.4 Laboratory and Field Testing

The Town shall approve the services of a reputable commercial testing laboratory or will perform the necessary tests on subgrade soils and flexible base material to verify that specifications are being met. These

laboratory tests will be made at the Developer's expense and may include the following:

- 10.2.17.4a Proctor Density Curves to establish the optimum density moisture relationship for the subgrade soil and the proposed flexible base material.
- 10.2.17.4b Gradation and soil constants (Atterberg Limits) tests to determine the suitability of the proposed flexible base material.
- 10.2.17.4c Tests during the construction phase to determine if subgrade and flexible base material have been placed as specified.
- 10.2.17.4d The proper tests to determine if the asphaltic concrete surfacing meets the requirements of the specifications.

10.2.18 Driveway Cuts

Driveway cuts or entrances to single-family or two-family uses shall not be allowed along thoroughfares, unless a siding street, or an alley with natural screening device, is provided outside the pavement of the thoroughfare. Driveway cuts shall be located so as to provide a spacing between curb radius return of at least five (5) feet for a single-family and two-family uses and at least twenty (20) feet for all other uses.

10.2.19 Street Openings to Adjoining Properties

Subdivision plat design shall provide for a reasonable number and locations of street openings to adjoining properties. Such an opening shall occur at least every nine hundred (900) feet or in alignment with abutting subdivision streets along each boundary of the subdivisions. In areas where drainage, railroads, highways, etc. exist, this 900 feet spacing may be waived, upon recommendation by the Town Engineer and approval by Town Council.

10.2.20 Boundary Streets

Where a plat is presented for approval which adjoins unplatted property, the owner and/or Developer of the proposed subdivision shall provide his pro rata part of the boundary streets, curbs, gutter and storm drainage.

10.2.21 Pavement widths and rights-of-way of streets forming part of the subdivision (adjacent) shall be as follows:

- 10.2.21.1 The Subdivider shall dedicate a right-of-way of 50 feet in width for new adjacent arterial streets, and 31 feet of such right-of-way shall be paved.
- 10.2.21.2 New adjacent collector, minor or marginal access streets shall conform to this Ordinance.
- 10.2.21.3 Where the proposed subdivision abuts upon an existing street or half-street that does not conform to this Ordinance, the Subdivider shall dedicate right-of-way sufficient to make the full right-of-way width conforming, and there shall be paved so much of such right-of-way as

to make the full pavement width comply. Before any pavement is laid to widen existing pavement, the existing pavement shall be cut back tow feet to assure an adequate sub-base and pavement joint.

10.2.22 Curbs

Curbs shall be installed by the Subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision.

10.2.23 Street Names

Names of new streets shall not duplicate, sound similar, or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

10.2.24 Street Lights

A Lighting Plan shall be submitted reflecting lighting in accordance with Town character.

10.2.24.1 The following standards shall apply to all Major and Minor Arterials:

10.2.24.1a Streetlights shall be placed in the medians, with spacing not to exceed three hundred (300) feet and no closer than one hundred fifty (150) feet depending on median breaks and intersections.

10.2.24.1b Luminaries shall be designed to function as Full Cutoff Type of Luminary(s).

10.2.24.1c Die cast aluminum or extruded aluminum with segmented internal reflector, 250-watt Metal Halide single or double head with davit arm black in color or approved equal by the Town Engineer shall be used.

10.2.24.1d Arterial lighting shall be installed prior to final acceptance by the Town Administrator or his/her designee. When partial arterials are constructed the Town Engineer may escrow funds in lieu of installing required lighting. Where arterials bisect property lines, each Developer is equally responsible for the complete cost of fully developed arterial lighting.

10.2.24.1e Poles are to be round tapered with a maximum height of thirty (30) feet.

10.2.24.2 The following standards shall apply to all Commercial Collectors:

10.2.24.2a Lights shall be placed in the parkway between the curb and the sidewalk, with spacing not to exceed three hundred (300) feet and no closer than one hundred fifty (150) feet.

- 10.2.24.2b Luminaries shall be designed to function as Full Cutoff Type of Luminary(s).
 - 10.2.24.2c Die cast aluminum or extruded aluminum with segmented internal reflector, 250-watt Metal Halide single head with davit arm black in color or approved equal by the Town Engineer shall be used.
 - 10.2.24.2d Collector lighting shall be installed prior to final acceptance by the Town Administrator or his/her designee. Where collectors bisect property lines, each Developer is equally responsible for the complete cost of fully developed lighting.
 - 10.2.24.2e Poles are to be round tapered with a maximum height of twenty (20) feet.
- 10.2.24.3 The following standards shall apply to all Residential Streets:
- 10.2.24.3a Poles are to be round tapered, American style with Barrington base, black in color, or another style if approved by the Town Council. Maximum height not to exceed twelve (12) feet for residential streets and fourteen (14) feet for collectors.
 - 10.2.24.3b Lamp wattages shall be 100 watts Metal Halide.
 - 10.2.24.3c Luminaries shall be Acorn with refractive globes, metal cap and finial.
 - 10.2.24.3d The Developer may install additional banding and/or medallions with prior written approval from the Town Engineer. The cost for maintenance and/or replacement of the banding and/or medallions shall be the responsibility of the Developer or Homeowners Association.
 - 10.2.24.3e Residential lights shall be installed without multiple luminaries.
 - 10.2.24.3f Light locations shall typically be at intersections and at mid-block if the block length is greater than six hundred (600) feet. Cul-de-sacs, six hundred (600) feet, measured from centerline of street to center point of cul-de-sac, shall have a light installed at the street intersection and at the beginning of the bulb. Other locations may be required as deemed necessary by the Town Engineer. Lights shall not be closer than one hundred fifty (150) feet. (Ord. No. 07-032)
 - 10.2.24.3g Subdivisions bounded by arterials shall have common type of luminaries. Streetlights shall be installed prior to

final acceptance by the Town Administrator or his/her designee.

10.2.24.4 A Lighting Plan shall be required anytime lighting is proposed, or modified. The lighting plan shall be submitted to the Town Engineer for review. A certified engineer, architect, landscape architect, lighting engineer or designer shall prepare the plan. The plan shall also contain a certification by the Property Owner or agent and the preparer of the plan that the street lighting depicted on the plan complies with the requirements of this Ordinance. The submission shall contain but shall not necessarily be limited to the following:

10.2.24.4a Plans indicating the location of the lighting, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;

10.2.24.4b Description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required) and height of the luminaries;

10.2.24.4c Photometric plan and data sheets, such as that furnished by manufacturers, or similar to that furnished by manufacturers, showing the angle of cut off or light emissions;

10.2.24.4d Water and sewer locations along with any other existing utilities lightly shaded on plans showing any possible location conflicts with proposed lighting.

10.2.24.5 The following are exempt by this Ordinance:

10.2.24.5a Temporary lighting approved in writing by the Town Engineer.

10.2.24.5b Where existing or phased subdivisions were under construction prior to the effective date of this Ordinance, the continued use of currently approved lighting will be permitted. When divided by collector sized streets the lighting standards contained in this Ordinance will be required.

10.2.24.5c Lighting luminaries in existence on the effective date of this Ordinance shall be exempt from these standards and shall be considered legally non-conforming. Such fixtures may be repaired, maintained and/or replaced.

10.2.24.5e The Town Engineer, or his/her designee, is hereby empowered and directed to administer and enforce the provisions of this Ordinance.

10.2.24.6 The initial cost of installation, operation, and maintenance for the first year shall be paid by the Developer to the Town. Maintenance and operation after this period shall be provided by the Town, unless the lights are on private streets.

10.2.25 Street Signs

Street signs shall be installed by the Subdivider at all intersections within or abutting the subdivision. Such signs shall be of a type approved by the Town, and shall be installed in accordance with standards of the Town.

10.3 Alleys

10.3.1 Width and Paving

Alleys of not less than twenty (20) feet in right-of-way width and pavement width shall be installed by the Subdivider in all business and industrial areas. In residential areas, alleys not less than fifty (15) feet in right-of-way width, with a paved surface of not less than twelve (12) feet in width, shall be optional. All alley paving shall be done in accordance with Town standards. Alleys shall be approximately parallel to the frontage of the street.

10.3.2 Intersecting Alleys and Utility Easements

Where two alleys or utility easements intersect or turn at a right angle, a cutoff of not less than ten (10) feet from the normal intersection of the property or easement line shall be provided along each property or easement line.

10.3.3 Dead-End Alleys

Dead-end alleys shall not be permitted.

10.3.4 Over-Hang Easements

In all alleys, over-hang easements for electric and telephone lines of at least ten (10) feet on each side of the alley strip at a height at or above eighteen (18) feet shall be provided.

10.3.5 Alleys which do not connect on a straight course

If alleys are not themselves straight within each block, or if the same do not connect on a straight course with the alleys of adjoining blocks, then an easement shall be provided for the plating of guy wires on lot division lines in order to support poles set on curving or deviating rights-of-way of alleys.

10.4 Utility Lines and Easements

10.4.1 All services for utilities shall be made available to each lot in such a manner so as to eliminate the necessity of disturbing the street and alley pavement, curb, gutter, sidewalks, and drainage structures when connections are made.

10.4.2 For electrical distribution lines with sixty thousand (60,000) volts or less, no new above ground utility support structures (poles) may be installed. When existing pole space is not available, all new electrical and communication utilities including but not limited to, transformers, amplifiers, and switching devices shall be placed underground or be pad mounted at ground level.

10.4.3 For all service connections from the right-of-way to the point of service for all non-residential properties:

- 10.4.3.1 Ground mounted equipment shall not be placed in visibility, access and maintenance easements.
- 10.4.3.2 All ground-mounted equipment in the right-of-way shall be screened from the adjacent street by minimum five (5) gallon shrubs on three (3) foot centers. Planting materials selected shall be materials that can be expected to grow to the height of the equipment height within two (2) growing seasons from the date planted. The planting material must be selected from the list of materials set forth in the Prosper's Town Ordinance No. 99-24, as it exists or may be amended. The proposed planting shall be included on the landscape plan as approved by the Town Administrator or his/her designee.
- 10.4.4 All support equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installations shall be pad mounted or placed underground.
- 10.4.5 The electric utility company shall be responsible for developing administrative policies and cost reimbursement procedures for the installation and extension of underground electric service. These policies shall permit the electric company to recover the cost differential between extending and installing overhead and underground service.
- 10.4.6 The Developer shall furnish all easements and right-of-way necessary for construction of electric, gas, street lighting, telephone and cable television service to the subdivision.
- 10.4.7 Overhead services will not be permitted to cross public right-of-ways.
- 10.4.8 All utility lines that pass under a street or alley shall be installed before the street or alley is paved. When it is necessary that utility lines pass under the street or alley pavement, they shall be installed to a point at least three feet beyond the edge of the pavement.

10.5 Sidewalks

Sidewalks shall be located as follows:

- 10.5.1 On the subdivision side of all arterial streets adjacent to the subdivision and not parallel by a marginal access street;
- 10.5.2 On the subdivision side of all collector streets adjacent to the subdivision if no adequate sidewalk exists on the opposite side of the street;
- 10.5.3 On the residence side of all marginal access streets whether adjacent to the subdivision or internal;
- 10.5.4 On both sides of all internal arterial streets not paralleled by a marginal access street;
- 10.5.5 On the north or east side of all internal collector streets;
- 10.5.6 As deemed necessary by the Commission in commercial, industrial, public, multi-family areas;
- 10.5.7 Such additional sidewalks as the Subdivider may desire; and

- 10.5.8 Shall be constructed of 3000 psi concrete having a minimum width of five feet (5') along residential streets and collector streets and six feet (6') along thoroughfares and a minimum thickness of four inches (4"), with number 3 bars at 18 inch centers, both ways. (Ord. No. 07-032)

10.6 Water Installation

- 10.6.1 All subdivisions shall be provided with an approved water system. In the corporate limits of the Town of Prosper all subdivisions shall be connected to the Town's water distribution system.
- 10.6.2 Water lines shall be laid in streets and alleys, or, with approval of the Town Engineer, may be laid in easements.
- 10.6.3 Where water lines are to be installed on private property, the Developer shall secure the necessary easements in the name of the Town of Prosper.
- 10.6.4 Water mains shall be a minimum of 6" nominal internal diameter.
- 10.6.5 Water services for each lot shall be a minimum of ¾" type K copper. Each service shall be provided with two in-line nylon ball cutoff valves contained inside the meter box. The meter shall have 5/8" diameter yoke and shall be purchased from the Town. Service to each lot shall have a maximum cover of 18 inches. Services shall be 1" type K copper for houses with more than 2 baths, or with swimming pools and/or yard sprinkler systems.
- 10.6.6 Valves shall be located such that the distance between valves is a maximum of 600 feet on 12" and smaller lines, on larger lines, spacing subject to approval of Town Engineer. Valves shall be furnished with extensions, such that the working nut is a maximum of 48" below grade.
- 10.6.7 All fire hydrants shall be painted by the Developer in accordance with the size of the line constructed:
- 10.6.7.1 6 inch line – Red
 - 10.6.7.2 8 inch line – Blue
 - 10.6.7.3 12 inch line – Yellow
- 10.6.8 Reflective fire hydrant spotters shall be installed in all streets at a point adjacent to fire hydrants.
- 10.6.9 Should the subdivision or addition abut and use a water main of the Town, the Developer shall pay the Town's impact fee charge as necessary.
- 10.6.10 When PVC pipe is used, 12 gauge single strand wire or tracer tape, blue in color, shall be installed in the backfill material 24 inches above the top of the pipe in accordance with the manufacturer's recommendations.
- 10.6.11 Water lines shall be installed with a minimum cover over the top of the pipe of 42 inches.

- 10.6.12 Water lines shall be pressure tested and disinfected in accordance with AWWA C601.
- 10.6.13 PVC pipe shall have a 6" sand bedding, 6" of sand on each side, and 12" of sand over top of pipe.
- 10.6.14 Engineering Design
The Engineering design shall conform to the latest criteria set forth in the AWWA Standards, as published by the American Water Works Association.
- 10.6.15 Technical Specifications
The specification for materials and workmanship shall conform to the latest edition of the "Standard Specifications for Public Works Construction" as published by North Central Texas Council of Governments, or as may be specified on the approved construction plans and specifications of the Town.

10.7 Water Sewers

- 10.7.1 All subdivisions shall be provided with an approved sewage disposal system and where the subdivision is inside the Town limits of the Town of Prosper shall be connected to the Town's sanitary sewer system.
- 10.7.2 The Developer shall furnish and install the complete sewage system, including the mains, manholes, cleanouts, Y-branches, service laterals for all lots, lift stations and appurtenances.
- 10.7.3 Should the subdivision or addition abut and use a sewer main of the Town, the Developer shall pay the Town's impact fee charge as necessary.
- 10.7.4 Sewer pipe shall have a minimum internal diameter of 8 inches.
- 10.7.5 Should a lift station, either temporary or permanent, be necessary to provide sanitary sewer service to the subdivision, the Developer shall construct the station and all appurtenances, at his own expense. If and when the lift station is no longer needed, the installation will, unless other provisions are made, remain the property of the Town of Prosper for reuse or disposal.
- 10.7.6 Sewer service for each lot shall have a minimum, internal diameter of 4 inches. Minimum cover at the property line shall be 4 feet. Need red tracer tape to indicate location of sewer stub out.
- 10.7.7 Sewers shall be extended across the property being subdivided.
- 10.7.8 Offsite sewer utilities shall be constructed by Developers at no expense to the Town.
- 10.7.9 Sewer lines may be constructed using the following materials or approve equal:
 - 10.7.9.1 Ductile Iron.
 - 10.7.9.2 Polyvinyl Chloride Pipe with integral bell.

- 10.7.10 Pipe bedding specifications shall be subject to approval by the Town Engineer. Six (6) inches of sand around PVC sewers with 12" sand over top of pipe.
- 10.7.11 Prior to acceptance, the sanitary shall be subjected to an air test and/or leakage test.
- 10.7.12 All force mains, stream crossings, railroad crossings and road bores shall be ductile iron pipe.
- 10.7.13 All railroad crossings and road bores shall be encased in a steel carrier pipe.
- 10.7.14 Manhole spacing shall not be greater than 500 feet.
- 10.7.15 Horizontal and vertical curves in sewer lines are not encouraged and are subject to approval of the Town Engineer on a case-by-case basis.
- 10.7.16 The Town Engineer may require the Developer (Contractor) to provide a TV examination of the sewer prior to acceptance if the sewer line is in question. Cost to be borne by Contractor.
- 10.7.17 **Engineering Design**
The engineering design shall conform to the criteria set forth in "WPCF Manual of Practice No. 9", latest edition as published by the American Society of Civic Engineers and the Water Pollution Control Federal and/or "Design Criteria for Sewage Systems", published by the Texas Department of Health and the Texas Department of Water Resources. Exceptions are as noted below under "Technical Specifications."
- 10.7.18 **Technical Specifications**
The specification for materials and workmanship shall conform to the latest addition of the "Standard Specifications or Public Works Construction," published by the North Central Texas Council of Governments, or as may be developed by the Town and approved on the construction plans.

10.8 Monuments

- 10.8.1 Monuments shall be located at the intersection of a line three feet north from parallel to the north line of each block with a line three feet from and parallel to the east line of the block, unless such point of intersection occurs within the limits of street paving. In such a case, alternate monument locations shall be approved by the Town Engineer. The permanent control markers shall be set as required and identified with standard coordinate points.
- 10.8.2 Where, due to topographic conditions, permanent structures, or other conditions, the view is obstructed between any two adjacent monuments, intermediate monuments shall be so set as to assure a clear view between adjacent monuments.

10.9 Drainage

- 10.9.1 An adequate storm sewer system consisting of inlet, pipes and/or excavated channels or natural creeks and other underground drainage structures with approved outlets shall be constructed where runoff of storm water and the

prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions as established by the Town will not be considered for development until adequate drainage has been provided.

- 10.9.2 In general, underground drainage shall be constructed in streets and alleys. If accepted by the Town Engineer, the Developer may provide at his own expense a right-of-way easement of sufficient width to permit excavation and maintenance of an open channel of satisfactory depth and width. The Developer shall complete all necessary excavation on the channel and shall sod or seed the channel to prevent erosion. Unless the excavated channel bottom is in Austin Chalk, Limestone, or other similar acceptable rock, a reinforced concrete pilot channel or concrete channel lining may be required by the Town to prevent erosion or for access purposes. Location, type of construction of open channels shall be approved by the Town Engineer.
- 10.9.3 Creeks shall be governed by Section 14 of this Ordinance. In the event of any conflict between this Section 10.9 and Section 14, Section 14 shall control.
- 10.9.4 When a creek or excavated channel is to remain open, or in its natural condition, it shall meet one of the following requirements:
 - 10.9.4.1 Creeks or excavated channels with side slopes of 4:1 or flatter from bottom of channel to top of bank may be platted as part of individual lots. Adequate access and floodway easements shall be provided to insure protection of these areas for maintenance purposes.
 - 10.9.4.2 Creeks or drainage ways with banks which have slopes steeper than 4:1 must be maintained by a maintenance entity other than individual lot owners. In such cases, the creek or excavated channel shall meet one of the following two requirements.
 - 10.9.4.2a The area of the floodway shall be provided as a park or floodway management area. Prior to acceptance of any drainage way as a floodway management area by the Town, the drainage way shall be cleared of all debris, trash and all objectionable underbrush and weeds. All provisions of Section 10.9.2 and Section 10.9.3 above must be met.
 - 10.9.4.2b Creeks or drainage ways in any areas which have private maintenance provisions other than individual lot owners, shall not be required as floodway management areas. However, the requirements of Section 10.9.3 above shall apply. The creeks or drainage ways in these areas shall not be maintained by the Town. Adequate utility access and floodway easements shall be provided to insure protection of utility areas for maintenance purposes.
 - 10.9.4.3 Lakes, detention ponds, and retention ponds may be constructed in all areas provided they are approved by the Town Engineer. The Town may assume maintenance responsibilities for this type of facility, if

approved by the Town Council, however, easements shall be provided to assure protection of these areas for maintenance purposes.

- 10.9.4.4 Other innovative drainage concepts will be considered if approved by the Town Engineer.
- 10.9.4.5 Brick or Masonry Headwalls. Headwalls constructed in Public Road right-of-way are shall have brick or stone facing. Safety grates shall be provided on all storm sewers.
- 10.9.4.6 Storm sewers may be constructed across the front and sides of all developments other than residential.
- 10.9.4.7 Engineering Design
The Engineering design for storm water facilities shall conform to the criteria set by the Town Engineer.
- 10.9.4.8 Technical Specifications
The specification for materials and workmanship shall conform to the latest edition of the "Standard Specifications for Public Works Construction," published by North Central Texas Council of Governments, or as approved on the construction plans for the specific project.

10.10 Blocks

Block lengths shall not exceed 1000 feet. A "T" intersection break on one side to provide traffic outlet will conform to the 1000 feet break.

10.11 Crosswalk Ways

Crosswalk ways six feet in width shall be dedicated where deemed necessary by the Commission to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities, or to provide pedestrian circulation within the subdivision. Crosswalk ways shall be provided with a concrete sidewalk six feet wide.

10.12 Lots

- 10.12.1 Lot area, width, setback lines, side yards, and rear yards requirements shall be as required in the Town's Zoning Ordinance.
- 10.12.2 Front
Each lot shall front upon a public street.
- 10.12.3 Side Lot Lines
Side lot lines shall be substantially at right angles to straight street lines and radial to curved street lines.
- 10.12.4 Extra Depth and Width in Certain Cases
Where a lot in a residential area backs up to a railroad right-of-way, a high pressure gasoline, oil and gas line, an arterial street, and industrial area, or other land use which has a depreciating effect on the residential use of property, and where no marginal access street or other street is provided at the rear of such lot, additional depth may be required by the commission. In no case shall a residential lot depth in excess of one hundred seventy-five (175) feet be required. Where a residential lot sides to any of the above, additional width shall be required by the Commission, but in no event shall a width in excess of one hundred (100)

feet be required.

10.12.5 Traffic

Lots for residential use shall not be fronted on arterial streets, major thoroughfares and expressways. Lot arrangement in case of non-residential uses are subject to the review and approval of the Town Council so that traffic congestion and movement problems are prevented whenever possible.

10.13 Thoroughfare Screening

10.13.1 Screening Requirements - Screening is required for all Single-Family, Two-Family, and other residential lots and subdivisions as follows:

10.13.1a The rear of all lots that back to a street with right-of-way of sixty feet (60') or greater;

10.13.1b The side of all lots that side to a street with right-of-way greater than sixty feet (60'), unless a lot sides to a median divided entry street to a subdivision;

10.13.1c Between any street and an adjoining parallel alley or street; and

10.13.1d The rear and/or side of all lots adjacent to a lot containing required screening along the adjoining rear and/or side yard.

10.13.2 Lots are prohibited from backing to a street with a right-of-way of less than sixty feet (60'). All required screening shall be installed in accordance with this Ordinance, as it currently exists or may be amended.

10.13.3 Screening Plans - A conceptual screening detail shall be submitted for review and approval with the Preliminary Plat. A screening plan, including entry features, showing elevations and materials is recommended to be submitted with the Final Plat and shall be submitted and approved prior to the filing of the Final Plat at the county. Screening walls and fences shall be designed in accordance with the Town's design standards. Structural elements shall be sealed by a licensed professional engineer and approved by the Town. All required screening shall be installed prior to Town issuance of Certificates of Occupancy for homes, excluding model homes. The Developer may delay the installation of screening by providing surety to guarantee the installation of the required screening. Surety shall be defined as a bond, letter of credit, or letter of financial guarantee from a financial institution. Required screening shall be installed within three (3) months from the date of Town acceptance of public improvements. The Town Engineer may increase the time to make the required screening installation, but the time shall not exceed one (1) year from the date of Town acceptance of public improvements.

10.13.4 Landscape Plans - A landscape plan for landscaping required by this Ordinance, as it currently exists or may be amended, is recommended to be submitted with the Final Plat and shall be submitted and approved prior to the filing of the Final Plat at the county. A landscape plan must be approved by the Town for all proposed landscaping prior to planting. Landscape materials and installation shall be in accordance with the Zoning Ordinance, as it currently exists or may be amended, or other applicable ordinances. All required landscaping shall be installed prior to Town issuance of Certificates of Occupancy for homes, excluding model homes. The Developer may delay the installation of landscaping by providing surety to guarantee the installation of the required landscaping. Surety shall be defined as a bond, letter of credit, or letter of financial guarantee from a financial institution. Required landscaping shall be installed within three (3) months from the date of Town acceptance of public improvements. The Town Engineer may increase the time to make the required screening installation, but

the time shall not exceed one (1) year from the date of Town acceptance of public improvements.

10.13.5 Any one or combination of the following may be used to screen thoroughfares:

10.13.5a Living Screen - This screening option shall be designed as follows:

(i) Additional R-O-W Requirements. Additional right-of-way shall be defined as right-of-way greater than that required by this Ordinance, as it currently exists or may be amended. Additional right-of-way shall be provided as follows and shall be shown on the plat as "right-of-way dedicated for landscaping and screening purposes only" to exclude franchise utilities from this area.

(a) An average of ten feet (10') of additional right-of-way shall be dedicated for lots that back or side to a street with a right-of-way width greater than eighty feet (80'). [See Exhibits #1, #2, and #3 attached hereto and incorporated herein for all purposes]

(b) An average of fifteen feet (15') of additional right-of-way shall be dedicated for lots backing to a street with a right-of-way width of sixty feet (60') to eighty feet (80'). [See Exhibits #1, #2, and #3 attached hereto and incorporated herein for all purposes]

(ii) Landscaping Requirements. Landscaping shall be provided as follows:

(a) A solid screen of shrubs shall be planted within the additional right-of-way dedicated for landscaping purposes. Shrubs shall be spaced so as to provide a solid screen and to reach a minimum height of six feet (6') within two (2) growing seasons.

(b) Trees shall be planted within the additional right-of-way dedicated for landscaping. The total number of caliper inches of the trees shall equal or exceed one (1) caliper inch per ten (10) linear feet of frontage of the additional right-of-way. Minimum tree size shall be three (3) caliper inches. A single species of tree shall not exceed forty-five percent (45%) of the plantings. Trees shall be planted a minimum of four feet (4') from easements as determined by the Town, curbs, utility lines, screening walls, fences, sidewalks, and alleys.

(c) Berms may be used subject to approval by the Town Engineer. The berms shall be placed outside of the required parkway, not to exceed a 3:1 slope, and designed so as not to hinder maintenance by the Town. Adequate information shall be provided on the landscape plan to indicate drainage patterns.

(iii) Screening Wall and Fencing Requirements. Screening walls and fencing shall be provided as follows:

(a) A continuous ornamental metal fence with a minimum height of four feet (4') and a maximum height of eight feet (8'), as measured from the nearest alley edge or sidewalk grade, shall be constructed in accordance with Town design standards within the additional right-of-way dedicated for landscaping purposes. The ornamental metal fence shall be constructed of solid-stock materials and tubular steel with a minimum of sixteen (16) gauge pickets and eleven (11) gauge posts.

(b) Where lots directly back or side to street right-of-way or additional right-of-way for landscaping purposes, the screening shall be a minimum of six feet (6') and a maximum of eight feet (8') in height

as measured from the nearest alley edge or sidewalk grade, whichever is higher. The maximum height of columns, including capstones, is nine feet (9').

(c) A five-foot (5') wall maintenance easement shall be provided on the plat for the residential lots adjacent to the screening wall.

(iv) Irrigation Requirements. Irrigation shall be provided as follows:

(a). Irrigation lines shall be placed a minimum of two and one-half feet (2 ½') from the sidewalk. Reduction of this requirement is subject to review and approval by the Town Engineer.

(b) Trees and shrubs shall be irrigated by bubbler irrigation lines only. Other landscaping may be irrigated by spray irrigation. Separate valves shall be provided to turn off the spray irrigation line during periods of drought or water conservation.

(c) The main irrigation line, section lines and water valve for irrigation shall be placed a minimum of thirteen feet (13') from the back of the curb at major intersections to accommodate right turn lanes.

(d) The Developer is responsible for installing the water meter and back flow equipment. The Town Engineer shall approve the water meter size and placement. The water meter shall be accessible from the street. Rain stat controllers shall be included on each sprinkler system.

(v) Maintenance Requirements. The Developer shall provide financial means to maintain required screening walls, fences, and landscaping. One of the following maintenance alternatives shall be selected and fulfilled by the Developer, but the selection is subject to staff approval:

(a) Establishment of a homeowners association to maintain required screening walls, fences, and landscaping. The Developer shall provide homeowners association documents to the Town to demonstrate financial responsibility for future maintenance, repairs, and replacement of the required improvements. Documents establishing the homeowners association or Property Owners association shall be submitted to the Town for review and may be reviewed by the Town Attorney for conformance with this and other applicable ordinances prior to final acceptance of the subdivision. The documents shall include, among other information required by the Town, descriptions of:

1. operating budgets based on operating assumptions;
2. reserve budget based on facilities to be maintained;
3. subsidies budget; and
4. liability insurance.

The homeowner association shall be responsible for maintaining, repairing, or replacing screening walls, fences, and landscaping required by this Ordinance, as it currently exists or may be amended. The Developer shall remain responsible for the maintenance requirements set forth herein, until the Developer ceases to control the homeowner's association.

(b) Subject to the discretion and approval of the Town Attorney and Town Council, a Public Improvement District (PID) may also be utilized to maintain landscaping improvements.

10.13.5b Berming and Landscaping - This screening option shall be designed as follows:

(i) Additional R-O-W Requirements. Additional right-of-way shall be defined as right-of-way greater than that required by other provisions of this Ordinance, as it currently exists or may be amended, or other applicable ordinances. Additional right-of-way shall be provided as follows and shall be shown on the plat as "right-of-way dedicated for landscaping purposes only" to exclude franchise utilities from this area.

Twenty-five feet (25') of additional right-of-way shall be dedicated for lots that back or side to a street with a right-of-way width of sixty feet (60') or greater.

(ii) Landscaping Requirements. Landscaping shall be provided as follows:

(a) A minimum of ten (10) shrubs per forty (40) linear feet shall be planted within the additional right-of-way dedicated for landscaping purposes. Shrubs shall be a minimum size of five (5) gallons. The shrubs shall generally be placed between berms to provide additional separation between the thoroughfare and the adjacent homes or alleys.

(b) Trees shall be planted within the additional right-of-way dedicated for landscaping. The total number of caliper inches of the trees shall equal or exceed one (1) caliper inch per ten (10) linear feet of frontage of the additional right-of-way. Minimum tree size shall be three (3) caliper inches. A single species of tree shall not exceed forty-five percent (45%) of the plantings. Trees shall be planted a minimum of four feet (4') from easements as determined by the Town, curbs, utility lines, screening walls, fences, sidewalks, and alleys.

(c) Berms with a 3:1 slope shall be constructed within the additional right-of-way for landscaping and screening purposes. Adequate information shall be provided on the landscape plan to indicate drainage patterns.

(iii) Screening Wall and Fencing Requirements. No screening walls or fences are required with this screening option.

(iv) Irrigation Requirements. Irrigation shall be provided as follows:

(a) Irrigation lines shall be placed a minimum of two and one-half feet (2 ½') from the sidewalk. Reduction of this requirement is subject to review and approval by the Town Engineer.

(b) Trees and shrubs shall be irrigated by bubbler irrigation lines only. Other landscaping may be irrigated by spray irrigation. Separate valves shall be provided to turn off the spray irrigation line during periods of drought or water conservation.

(c) The main irrigation line, section lines and water valve for irrigation shall be placed a minimum of thirteen feet (13') from the back of the curb at major intersections to accommodate right turn lanes.

(d) The Developer is responsible for installing the water meter and back flow equipment. The Town Engineer shall approve the water meter size and placement. The water meter shall be accessible from the street. Rain stat controllers shall be included on each sprinkler system.

(v) Maintenance Requirements. The Developer shall provide financial

means to maintain required screening walls, fences, and landscaping. One of the following maintenance alternatives shall be selected and fulfilled by the Developer, but the selection is subject to staff approval:

(a) Establishment of a homeowners association to maintain required screening walls, fences, and landscaping. The Developer shall provide homeowners association documents to the Town to demonstrate financial responsibility for future maintenance, repairs, and replacement of the required improvements. Documents establishing the homeowners association or Property Owners association shall be submitted to the Town for review and may be reviewed by the Town Attorney for conformance with this and other applicable ordinances prior to final acceptance of the subdivision. The documents shall include, among other information required by the Town, descriptions of: 1) operating budgets based on operating assumptions; 2) reserve budget based on facilities to be maintained; 3) subsidies budget; and 4) liability insurance. The homeowner association shall be responsible for maintaining, repairing, or replacing screening walls, fences, and landscaping required by this Ordinance, as it currently exists or may be amended. The Developer shall remain responsible for the maintenance requirements set forth herein, until the Developer ceases to control the homeowner's association.

10.13.6 Walls Between Houses

Walls between houses shall include a side yard gate for each house. Side yard gates may be constructed of wood or steel and conform to the wood or steel fence standards contained herein. Masonry materials shall match house materials of the primary structure on that lot. Where two masonry materials come together between houses and are of a differing brick (color, blend, size, and/ or texture), the change between bricks shall be submitted to the Town Administrator for approval.

10.13.7 Location of Fences and Walls

All fences and walls must be set back six (6) feet from the front building line. No fence or wall may be located in front of the front building plane closest to the yard space in which the fence is located.

10.14 Provision of Amenities

For the purpose of this Section, an amenity shall be defined as an entry feature, walls, private access gates and the associated structures, open space, recreational facilities, parks, pond, water fountain, water feature, or other commonly owned facilities.

10.4.1 Where amenities are proposed as a part of or in conjunction with a subdivision or addition, the following items must be provided to the Town and will require Town review and approval prior to final acceptance of the subdivision improvements:

10.14.1.1 Plans and illustrations of the proposed amenities. It is required that a conceptual plan for amenities be submitted for review and approval with the Preliminary Plat.

10.14.1.2 Plans for amenities shall be incorporated into the landscape and screening plans and are recommended to be submitted with the Final Plat and shall be submitted and approved prior to the filing of the Final Plat at the county.

10.14.1.3 Structural elements shall be sealed by a licensed professional engineer and approved by the Town.

10.14.1.4 Site plan approval is required for private recreational facilities and

parks.

10.4.2 Association Documents, Deed Restrictions, Contracts and Agreements Pertaining to the Amenities.

A homeowners association or Property Owners association shall be required to maintain all amenities. Documents establishing the homeowners association or Property Owners association shall be submitted to the Town for review. The Town, in its sole discretion, may submit the documents to the Town Attorney to review for conformance with this and other applicable Ordinances prior to final acceptance of the subdivision. The documents shall specify:

- 14.4.2.1 Membership in the association is mandatory for all owners of property within the subdivision;
- 14.4.2.2 All association responsibilities and property interests;
- 14.4.2.3 By-laws related to the governance of the association;
- 14.4.2.4 Covenants for maintenance assessments, which run with the land;
- 14.4.2.5 Responsibility for liability insurance and local taxes; and
- 14.4.2.6 Authority for the association to secure funds from its members sufficient to meet its responsibilities. This authority shall include the ability to:
 - 10.14.2.6a collect dues;
 - 10.14.2.6b to increase dues;
 - 10.14.2.6c charge special assessments; and
 - 10.14.2.6d place liens against property for failing to pay dues and assessments.

10.4.3 Dues

Dues shall be calculated based on:

- 10.4.3.1 Build out of the subdivision; and
- 10.4.3.2 Other Town requirements as applicable; and
- 10.4.3.3 Written release of liability for maintenance to benefit the Town; and
- 10.4.3.4 Written indemnification of the Town for any damages, injuries (including death), and/or liability resulting from the amenity; and
- 10.4.3.5 Funds based on an accredited cost projection analysis in escrow to the Town or within a specific reserve account of the homeowners association or Property Owners association for the maintenance and removal of entry features, water features, or other amenities as determined by the Town.

10.4.4 Design

The design of amenities shall conform to the following:

- 10.4.4.1 An entry feature may be constructed on public right-of-way, but may not be constructed to suspend over a public right-of-way.
- 10.4.4.2 An entry feature may be placed within a median within a right-of-way upon Town Council approval.

- 10.4.4.3 An entry feature consisting of a water pond, fountain, or other water feature shall be permitted subject to approval by the Town Engineer.
- 10.4.4.4 No entry feature, other than screening walls or extensions of screening walls, may be constructed on a lot which contains or will contain a single-family home.
- 10.4.4.5 Entry features shall not encroach into visibility easements or otherwise impair pedestrian or vehicular visibility.

All amenities placed on land dedicated to the Town or within a public right-of-way, or involving the potential use of public funds for maintenance and operation shall require Town Council approval. The Town Council may deny any such amenity at its sole discretion.

10.4.5 Notice to Purchasers

Builders are required to post notice in a prominent place in all model homes and sales offices stating that a property association has been established and membership is mandatory for all Property Owners. The notice shall state at a minimum that the builder shall provide any person upon their request the association documents and a five-year projection of dues income and association expenses.

10.4.6 Maintenance Reserve Fund

Prior to the transfer of the association to the lot owners, the Developer must provide an adequate reserve fund to the association for maintenance purposes. A reserve study must be conducted by the Developer and reviewed by the Town to insure that adequate funds are provided to the association.

10.4.7 Property Association Activation

Concurrent with the transfer of the association, the Developer must transfer to the association control over all utilities related to common property and amenities to be owned by the association. The Developer must also disclose to the association the total cost to date related to the operation and maintenance of common property and amenities.

11. RESPONSIBILITY FOR PAYMENT OF INSTALLATION COSTS

11.1 Water and Sewer Systems

- 11.1.1 Where extensions of water and sewer mains are required to serve property which has been subdivided or platted for development and resale and the Final Plat has been approved by the Town Council, the Town shall construct or cause to have constructed such mains upon deposit of the total cost of such extensions, including the cost of approach mains fronting property not owned by the Developer, but necessary to connect the area for which application is made with the Town water and sewer systems.

The Developer will bear the total cost of construction of off-site or approaching mains required to interconnect property to be developed with existing mains, the sizes to be determined by the Town in accordance with the Water Master Plan, and with the only refunds to be the impact fee as collected by the Town. Any refund to the Developer shall not exceed the total of the impact fee charges, or the total cost of the actual construction, whichever is the lesser amount.

There shall be a maximum of ten years as the period of eligibility wherein the original depositor may request a refund of impact fee payments under this Section. In the event the abutting property is not developed during the said ten (10) year period, then no refund shall be made under this Section. The period of eligibility shall begin as of the date of final inspection and acceptance of the extensions by the Town. The Town will return all refunds due from other Developers when and as they are received.

11.1.2 Should the subdivision abut and use a sewer or water main of the Town, the Developer shall pay to the Town an impact fee charge as prescribed herein for use of the same.

11.1.3 Impact fee charges shall be that portion of the total cost of the existing water or sewer main necessary to serve the need directly generated by the subdivision being developed, as determined by the Town Engineer.

11.2 Street Construction

11.2.1 The Developer shall be responsible for all costs for the installation of streets in a subdivision, including those streets and related drainage structures that are deemed by the Commission and Town Council to be required because of any or all of the following:

11.2.1.1 A substantial amount of traffic will be generated from to or through the subdivision because of existing and/or future conditions; or

11.2.1.2 The Town's Comprehensive Plan indicates a need for certain major streets through or adjacent to the subdivision.

11.2.2 In the case where a subdivision lies wholly within the extraterritorial jurisdiction (ETJ) of the Town and the subdivision shall be adjacent to or adjoin proposed major street, the Developer shall pay Thoroughfare Impact Fees as set forth in Town Ordinance No. 02-33, as it exists or may be amended, establishing a comprehensive fee schedule.

11.3 Drainage

The Developer shall be responsible for all costs for the installation of the drainage system required to accommodate the needs of the subdivision being developed to include the carrying of existing water entering the subdivision.

11.4 Other Improvements

The Developer shall be responsible for all costs and for the installation of improvements as set forth in this Ordinance.

12. FLOOD HAZARD AREAS

12.1 General

The flood hazard areas of the Town of Prosper are subject to periodic inundation which results the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare. These flood losses are caused by:

12.1.1 The cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and

- 12.1.2 The occupancy of flood hazard areas by uses vulnerable to floods, or hazardous to other lands, which are inadequately elevated or otherwise protected from flood damages. The developer or his engineer shall design all drainage facilities to provide for the discharge resulting from development conditions up stream of the project site.

This Section is based upon a reasonable method of analyzing flood hazards, to wit: Flood Hazard Maps provided by the Federal Emergency Management Agency (FEMA).

12.2 Purpose

It is the purpose of this Section to promote the public health, safety and welfare, and to minimize the losses described in Section 12.1 by provisions designed to:

- 12.2.1 Restrict or prohibit subdivision of lands for uses which are dangerous to health, safety or property in times of flood or which, with reasonably anticipated improvements, will cause excessive increases in flood heights or velocities.
- 12.2.2 Require that each subdivision lot in an area vulnerable to floods be provided with a safe building site with adequate access and that public facilities which serve such uses be installed with protection against flood damage at the time of initial construction.
- 12.2.3 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 hazards area be delineated on the Final Plat, and reserving through deed restrictions areas not suitable for development.

12.3 Application

This Section shall apply to all lands within the jurisdiction of the Town of Prosper and its extraterritorial jurisdiction delineated as flood hazard areas on the FEMA maps.

12.4 Warning and Disclaimer of Liability

The degree of flood protection required under this Section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as trash jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the delineated flood hazard areas or land uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Town of Prosper or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

12.5 Land Suitability

No land shall be subdivided which is held unsuitable for its intended use by the Commission for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earth slides, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or Property Owners of the proposed subdivision or the community at large. However, the Commission may approve Preliminary and Final Plats if Subdividers improve lands consistent with the standards of this and other applicable Ordinances to make subdivision areas, in the opinion of the Commission, suitable for their intended uses. The Commission may also approve the Preliminary and Final Plats if Subdividers agree to make suitable improvements and place a sum in escrow pursuant to this Ordinance to guarantee performance. In determining the

appropriateness of land subdivision at a site, the Commission shall consider the objectives of this Section, and

- 12.5.1 The danger to life and property due to the increased flood heights or velocities caused by subdivision fill, roads, and intended uses.
- 12.5.2 The danger that intended uses may be swept on to other lands or downstream to the injury of others.
- 12.5.3 The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions.
- 12.5.4 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- 12.5.5 The important of the services provided by the proposed facility to the community.
- 12.5.6 The requirements of the subdivision for a waterfront location.
- 12.5.7 The availability of alternative locations not subject to flooding for the proposed subdivision and land uses.
- 12.5.8 The compatibility of alternative locations not subject to flooding for the proposed subdivision and land uses.
- 12.5.9 The relationship of the proposed subdivision to the Comprehensive Plan and flood Plain Management Program for the area.
- 12.5.10 The safety of access to the property for emergency vehicles in times of flood.
- 12.5.11 The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- 12.5.12 The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

12.6 Building Site Improvements

- 12.6.1 No subdivision or part thereof shall be approved if proposed subdivision levees, fills, structures or other features will individually or collectively significantly increase flood flows, heights, or damages.
- 12.6.2 Building sites for residences, motels, resorts or other dwelling or accommodation uses shall not be permitted in floodway areas. Sites for these uses may be permitted outside the floodway if the sites are elevated or filled to a height at least 1.5 feet above the elevation of the regulatory flood or if other provisions are made for elevating or adapting structures to achieve the same result. Required fill areas must extend 10 feet beyond the limits of intended structures and, if the subdivision is not to be sewerred, must include areas for onsite waste disposal.
- 12.6.3 Building sites for structures not included in Section 12.6.2 shall similarly not be permitted in floodway areas. Such sites located outside floodway shall ordinarily be protected as herein provided. However, the Commission may allow subdivision of areas for commercial and industrial use at a lower elevation if the Subdivider protects the areas to a height of 1.5 feet above the regulatory flood elevation by levees, channel modifications, or other protective techniques; or if the Subdivider assures that uses will be protected through structural flood-proofing, flood warning system or other techniques specified in Section 12.

- 12.6.4 If the Commission determines that only part of a proposed plat can be safely developed, it shall limit development to that part and shall require that development proceed consistent with this determination.
- 12.6.5 When the Subdivider does not intend to develop the plat himself and the Commission determines that additional use controls are required to insure safe development, it may require the Subdivider to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on the face of the final recorded plat.
- 12.7 Drainage Facilities
Storm drainage facilities shall be designed to store and convey the flow of surface waters from a 100 year frequency storm without damage to persons or property. The system shall insure drainage at all points along streets, and provide position drainage away from buildings and onsite waste disposal sites. Plans shall be subject to approval by the Planning Commission. The Commission may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The Town may adopt separate drainage design criteria which shall provide specific conditions for development.
- 12.8 Roads
The finished elevation of proposed streets shall be no more than 1.0 feet below the regulatory flood protection elevation. The Commission may require, where necessary, profiles and elevations of streets to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.
- 12.9 Sanitary Sewer Facilities
- 12.9.1 The Commission may prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high ground water, flooding, or unsuitable soil characteristics. The Commission may require that the Subdivider note on the face of the plat and in any deed of conveyance that soil absorption fields are prohibited in designed areas.
- 12.9.2 The Commission may prescribe adequate methods for waste disposal. If a sanitary sewer system is located on or near the proposed subdivision, the Commission shall require the Subdivider to provide sewage facilities to connect to this system where practical, and shall prescribe the procedures to be followed by the Subdivider in connecting to the system.
- 12.10 Water Facilities
All water systems including individual wells located in flood prone areas, whether public or private, shall be flood-proofed to a point at or above the flood protection elevation. If there is an existing public water supply system on or near the subdivision, the Commission may require the Subdivider to convert to this system.
- 12.11 Erosion and Sediment Control Measures
The Commission may require the Subdivider to utilize grading techniques, subdivision design, landscaping, sedimentation basins, special vegetation cover, and other measures to reduce erosion and sediment.
- 12.12 Flood-Proofing

The Commission may, as a condition of approving any plat for an area subject to flooding, require flood-proofing of intended uses. Flood-proofing plans must be individually approved by the Commission before such uses are constructed. Flood proofing may include:

- 12.12.1 Anchorage to resist flotation and lateral movement.
- 12.12.2 Installation of watertight doors, bulkheads, and shutters, or similar methods of closure.
- 12.12.3 Reinforcement of walls to resist water pressures.
- 12.12.4 Use of paints, membranes, or mortars to reduce seepage of water through walls.
- 12.12.5 Addition of mass or weight to structures to resist flotation.
- 12.12.6 Installation of pumps to lower water levels in structures.
- 12.12.7 Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
- 12.12.8 Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures.
- 12.12.9 Building design and construction to resist rupture or collapse caused by water pressure or floating debris.
- 12.12.10 Installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent back-up of sewage and storm waters into buildings or structures.
- 12.12.11 Location and installation of all electrical equipment, circuits and electrical appliances so that they are protected from inundation by the regulatory flood.
- 12.12.12 Location of storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare at elevation above the height associated with the regulatory protection elevation; or design of such facilities to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.

13. PARKS AND OTHER PUBLIC USES

Preliminary Plats shall designate sites for schools, parks or other public areas as indicated in the Town's Comprehensive Plan or in accordance with Town policy. The responsible public authority shall acquire such property within eighteen (18) months of the approval of the Preliminary Plat by the Town Council. Should the responsible public authority not acquire such property within eighteen (18) months of the approval of the Preliminary Plat by the Town Council, the Subdivider may proceed with development of the subdivision as though such area were non-existent.

13.1 Conveyance of Land for Recreational Areas and Facilities

13.1.1 Purpose.

This Section 13 is adopted to ensure that adequate recreational areas in the form of neighborhood and community parks are provided to meet the additional needs created by new residential development.

13.1.2 Scope.

The provisions of this Section shall apply to all new residential development within the Town and all residential subdivisions within its extraterritorial jurisdiction after

the effective date of this Ordinance for which a Final Plat or Preliminary Plat is required to be submitted to the Town for approval

13.1.3 Exemptions.

The provisions of this Section shall not apply to the following:

13.1.3.1 Residential development for property to be located on a lot of record, Final Plat or replat which was approved prior to the effective date of this Ordinance.

13.1.3.2 Residential development constructed or to be constructed in accordance with a building permit issued prior to the effective date of this Ordinance.

13.2 Neighborhood and Linear Parks and Connections to Park

This Section 13.2 shall not apply to Major Creeks as set forth in Section 14 unless otherwise noted.

Parks must be easy to access and open to public view so as to benefit area development, enhance the visual character of the Town, protect public safety and minimize conflict with adjacent land uses. The following guidelines must be used in designing parks and adjacent development:

13.2.1 Where physically feasible, parks must be bounded by streets or by other public uses (e.g. school, library, recreation center).

13.2.2 Where residential lots must directly abut a park, lots must be oriented so as to side and not back to the park. In this instance, cul-de-sac and looped streets must be used to access the lots and park (see illustration: Park Access).

13.2.3 Residential lots may back to a park only when the site's physical character (e.g. shape, topography, drainage) does not reasonably permit an alternative design or the layout of the subdivision complements the use of the park (e.g. lots backing to a golf course).

13.2.4 A proposed subdivision adjacent to a park may not be designed to restrict reasonable access to the park from other area subdivisions. Street connections to existing or future adjoining subdivisions may be required to provide reasonable access to parks.

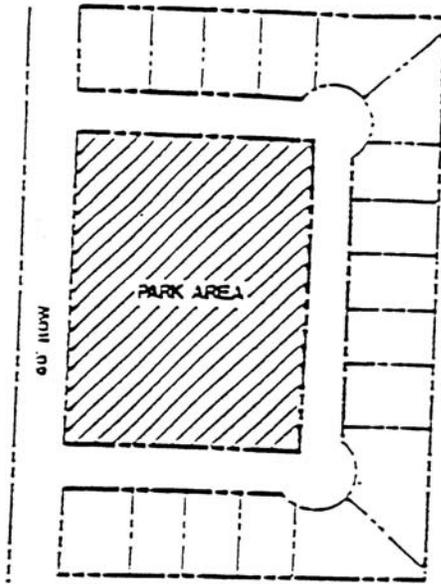
13.2.5 Where a non-residential use must directly abut a park, the use must be separated by a screening wall or fence and landscaping approved by the Town. Access points to the park may be permitted by the Town if a public benefit is established.

13.2.6 Alleys may abut a park provided that the alley does not exceed the residential lot depth by the width of the alley. Alleys should not be designed to encourage their use as a means of vehicular, bike or pedestrian travel to the park.

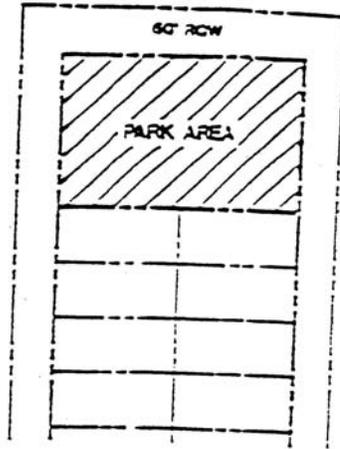
13.2.7 Public access to a park shall not be less than twenty (20) feet at the curb and widened to fifty (50) feet in width to the Base Flood Plain and/or Maintenance and/or Access Dedication and shall not be part of a residential lot. The Property Owner shall install a ten (10) foot wide concrete trail from the street to the hike and bike trail/park prior to final acceptance of the subdivision. This trail must be blocked from motor vehicle traffic. However, the Property Owner may request to escrow funds for the contracted amount prior to final acceptance of the subdivision with Town approval. The escrow amount will remain in place until the trail has been completed and accepted by the Town.

PARK ACCESS

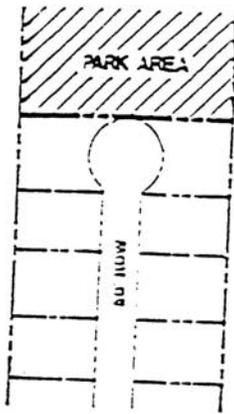
EXHIBIT B



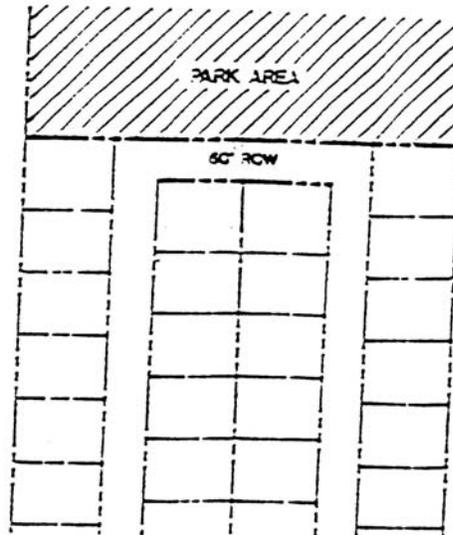
COLLECTOR STREET



LOOP STREET



CUL-DE-SAC



LOOP STREET

- 13.2.8 A twenty-five (25) foot level surface shall be provided for a twelve (12) foot wide public hike and bike trail when required. The twenty-five (25) foot wide level surface can be provided within and/or outside of the Base Flood Plain and/or Access Dedication. The parkway for the public street may count towards the twenty-five (25) foot wide level surface. The proposed hike and bike trail shall be shown on the Preliminary Plat. The Town Engineer or his/her designee shall make the final determination of the placement of the public hike and bike trail at the time of the Final Plat. Low water crossings for the hike and bike trail may be permitted with approval from the Town Engineer or his/her designee. The hike and bike trail shall be designed so as to minimize visibility blind spots from public streets for public safety purposes.
- 13.2.9 Streets abutting a park shall be built in accordance with the thoroughfare plan, the standards of this Ordinance and all other applicable construction standards and/or ordinances, as they exist or may be amended; however, the Town may require any residential street built adjacent to a park to be constructed to collector street width to ensure access and prevent traffic congestion.
- 13.2.9.1 When park land is acquired, the Town shall reserve sufficient land to provide the additional right-of-way required for an abutting collector size street, sixty (60) feet of right-of-way, unless otherwise approved by the Town.
- 13.2.9.2 The proposed street alignment fronting on Town parks is subject to Town approval. Land owners shall also provide street access to all Major Creeks and/or Access Dedications.
- 13.2.10 Dedication Requirements
- 13.2.10.1 Conveyance or Money in Lieu of Land
The owner of any property to be developed for residential purposes shall convey for park purposes land or make a payment of money in lieu of land, or a combination of both, to the Town at the time of rezoning or subdivision to provide for the recreational needs created by such development, in accordance with the provisions of this chapter.
- 13.2.10.2 Proposed Number of Dwelling Units
All plats, lots of record, replats, site plans or proposed improvements of land for new residential development, required to be submitted to the Commission, park board, and/or Town Council, shall indicate the number of proposed dwelling units to be constructed or placed within the development on such plat, lot of record, replat or site plan.
- 13.2.10.3 Determination of Requirements
In reviewing any lot of record, plat, site plan or proposed improvements of land for a new residential development, the Town Council and park board shall, except where a payment of money in lieu of land is automatically required to be made under this Section 13, make a determination of whether a conveyance of land, payment of money in lieu of land or a combination of both shall be made to meet the requirements of this Section.
- 13.2.10.4 Factors Considered
In making a determination of which type of dedication, or combination thereof, shall be made, the Commission shall recommend what would

be in the best interest of the Town, based upon relevant factors which may include, but not be limited to, the following:

- 13.2.10.4a Whether the proposed land to be conveyed for park purposes would be suitable as a neighborhood, linear, community, or Town park.
- 13.2.10.4b The parks and recreation comprehensive plan for the area in which the development is located.
- 13.2.10.4c The recommendation of the park board or the department of parks and recreation.
- 13.2.10.4d Whether the proposed land to be conveyed for park purposes is adjacent to an existing or proposed school site.
- 13.2.10.4e Whether there is sufficient existing public or private park land in the area of the proposed development.
- 13.2.10.4f Whether the park needs of the area where the proposed development is located would be best served by expanding or upgrading existing parks.
- 13.2.10.4g Land located adjacent to a greenbelt park.

13.3 Suitability

A proposed conveyance of land shall not be considered suitable for neighborhood or community park purposes if it has one or more of the following characteristics:

- 13.3.1 Located within the 100-year floodplain, as shown on the latest flood insurance rate map or floodplain Ordinance adopted by the Town on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. The Town may take more than the 20 percent floodplain land if it is determined in the best interest of the Town.
- 13.3.2 The proposed park site dedication is less than seven and one half (7.5) acres for a neighborhood park or twenty (20) acres for a community park, unless the proposed dedication is located in such a manner in which it could be combined with other dedications to create a park of adequate size.
- 13.3.3 It has unusual topography or slope which renders it unsuitable for organized recreational activities or passive park needs, depending on the Town's intended use for the park.
- 13.3.4 It does not or would not front an improved public street or would not be readily accessible, in whole or in part, to the public.

13.4 Conveyance of Land Requirements

Where the Town Council determines that a conveyance of land shall be required, in whole or in part, to meet the requirements of this Section, the following provisions shall apply:

- 13.4.1 Amount (Ord. No. 10-006)
The required conveyance of land shall be one (1) acre of land per thirty-five (35) residential units, or in an amount proportionally equal to five percent (5%) of the total tract acreage, whichever is greater.
- 13.4.2 Manner and Method.

Plats required to be submitted to the Town for approval, shall show thereon a fee simple conveyance to the Town of the land required by this Section for park purposes as a condition to approval of such plat by the Town Council, and the Town may further require the conveyance of the park property by general warranty deed. As a condition to acceptance of the plat or deed by the Town, the Subdivider shall provide the Town with an owner's title policy of insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the Town.

13.4.3 Credit for Prior Dedications

Where a dedication of land was made prior to the effective date of this Section 13 by the owner of land required to convey land under the provisions of this Section 13, the former dedication of land shall be credited on a per-acre basis toward the required conveyance provided by this Section 13 when the Town Council finds that:

- 13.4.3.1 The dedication was made within five (5) years of the effective date of this Ordinance from which this Section derives;
- 13.4.3.2 The land dedicated was within one-half (1/2) mile of the new development for which land is required to be conveyed;
- 13.4.3.3 The land dedicated is not being presently used for purposes incompatible with park purposes and is suitable for park purposes; and
- 13.4.3.4 A credit may be given for on-site improvements that are compatible with long-range development plans for the proposed park.

The credit provided for herein shall not be transferable and shall only be given to the donor of the land who is the owner of the property being developed for which a conveyance of land is required by this Section, unless said prior conveyances were included as a part of an executed facilities and/or development agreement with the Town and the Developer.

13.4.4 Credit for Private Recreation Facilities (Ord. No. 10-006)

Where private recreation facilities are built for the residents for the subdivision or development, a credit may be granted with a recommendation from the Town Parks and Recreation Board and approval by the Town Council. The value of these private recreation facilities shall be determined by the Town Council, but shall not exceed one hundred percent (100%) credit of conveyance.

13.5 Money in Lieu of Land

Where the Town Council determines that a payment of money in lieu of land shall be made, the following provisions shall apply:

- 13.5.1 Any payment of money required to be paid shall be in an amount equal to the average per-acre value of the whole property included within the residential development, the amount set forth in the Fee Schedule Ordinance No. 02-33 as it currently exists or may be amended, whichever is greater.
- 13.5.2 In determining the average per-acre value of the total land included within the proposed residential development, the Town Council may base its determination on one or more of the following:
 - 13.5.2a The most recent appraisal of all or part of the property made by the central appraisal district; or

- 13.5.2b Confirmed sale prices of all or part of the property to be developed, or comparable property in close proximity thereof, which have occurred within two years immediately preceding the date of determination; or
 - 13.5.2c Where, in the judgment of the Town Council, Section 13.5.2a or 13.5.2b above would not, because of changed conditions, be a reliable indication of the then-current value of the land being developed, an independent appraisal of the whole property obtained by the Town and paid for by the Developer; or
 - 13.5.2d The amount set forth in the Fee Schedule Ordinance No. 02-33 as it currently exists or may be amended.
- 13.5.3 Time of payment. Any payment of money required herein shall be paid as a condition to the approval of any Final Plat or replat. Payment shall be made prior to the signing of the plat unless otherwise stated in a facilities agreement approved by the Town Council.
- 13.5.4 Park development fund. All cash payments paid to the Town in accordance with this Section 13 shall be deposited in a separate park development fund. The Town shall account for all such payment with reference to each development for which the payment is made.
- 13.5.5 Use of funds. Any payments made to the park development fund must be used for the acquisition, development, expansion or upgrading of parks located within the same park district or general area where the proposed development for which payment was made is located.
- 13.5.6 Right to refund. If all or part of the payments made for a development are not expended for the purposes authorized herein within five (5) years of the date that 95 percent of all certificates of occupancy have been issued for the completed development of the property for which the payments were made, the person or entity who made such payments shall be entitled to a refund on all unexpended funds if a request for a refund in writing has been made within six (6) months of entitlement. If no such timely request is made, the right to a refund of the unexpended funds shall be considered waived.
- 13.5.7 Compliance
- 13.5.7.1 Requirements to be Satisfied Prior to Development. It shall be unlawful for any person who is required to convey land, or pay money in lieu of land, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any development until the required conveyance of land, or payment of money in lieu of land, is made to the Town in accordance with this Section 13.
 - 13.5.7.2 Permits and Services to be Withheld. No building permits shall be issued for, and no permanent utility services shall be provided to, any land within any development until the required conveyance of land, or payment of money in lieu of land, is made to the Town in accordance with this Section 13.
- 13.5.8 Prosper Park Improvement Fee
- 13.5.8.1 Purpose
A park improvement fee ("park fee") is hereby imposed on residential

development for the purpose of assuring that Town, community, neighborhood and linear park facilities are available and adequate to meet the needs created by such residential development. The park fee is imposed in conjunction with and in addition to requirements for the dedication of neighborhood and linear park land and the construction of neighborhood and linear park improvements for which contributions the Property Owner may be reimbursed from proceeds of park fees imposed, as provided in Section 13.5.11.

13.5.8.2 Applicability of Park Fee

13.5.8.2a In all cases in which land is dedicated or cash is paid in lieu of dedication, the Subdivider shall pay to the Town a sum of money, as set forth by Section 13.5.9. This sub-section does not apply to activities involving the replacement, reconstruction, remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure or to permits required for accessory uses, unless such activity results in a change in the type or increase in the number of dwelling units.

13.5.8.2b For purposes of this Section, property is "served by" park facilities when funds collected for such facilities have been spent for park facilities within ten (10) years from the date of collection.

13.5.8.3 Imposition of Park Fee

13.5.8.3a Payment of the park fee shall be made prior to the acceptance of public improvements by the Town. If no public improvements are required, such payment shall be made prior to filing the record plat.

13.5.8.3b Imposition of the park fee does not alter, negate, supersede or otherwise affect any other requirements of Town, county, state or federal legislation or regulations that may be applicable to a residential development, including Town zoning and/or subdivision regulations that may impose open space and park requirements and standards.

13.5.8.3c The provisions of this Section 13.5.8 shall not be construed to limit the power of the Town to utilize other methods authorized under state law or pursuant to other Town powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this Section. Guidelines may be developed by resolution, Ordinance or otherwise to implement and administer this Section 13.5.8.

13.5.9 Amount of Park Improvement Fee (Ord. No. 10-006)

13.5.9.1 There is hereby established a park fee for single-family dwelling units in the amount of one thousand five hundred dollars (\$1,500.00) per unit, and a park fee for multifamily dwelling units in the amount of two thousand dollars (\$2,000.00) per unit.

13.5.10 Processing and Collection of Park Improvement Fee

13.5.10.1 Upon acceptance of a Final Plat, the Town shall calculate the amount of the applicable park fee due. The park fee rate in effect at the time of acceptance of the Final Plat shall be used to calculate the park fee.

13.5.10.2 The applicable park fee shall be collected prior to the signing of the plat unless otherwise stated in an agreement approved by the Town Council.

13.5.11 Use of Park Improvement Fee

13.5.11.1 Park fees must be used for the following purposes:

13.5.11.1a To acquire and develop Park Facilities.

13.5.11.1b To repay Developers for the reasonable costs of any park improvements constructed and accepted by the Town. For multifamily development projects and for complete phases of a single-family subdivision plat, the Developer may elect to apply the entire amount to be reimbursed under this Section as a credit against park fees due for the residential development; provided that the application of the credit does not result in a partial fee for any dwelling unit, in accordance with guidelines established by the Town. The Town shall retain sole discretion to determine whether to accept proposed park improvements.

13.5.11.2 The amount of the reimbursement shall be based upon standards promulgated by the Town, which may be adopted as administrative guidelines.

13.5.11.3 A Developer shall propose the construction of park improvements in conjunction with the subdivision platting process. The Town shall determine the amount of reimbursement due in accordance with the standards referenced herein. In the event that the Developer is dissatisfied with the Town's determination of the amount of reimbursement, he may at his own expense seek an appraisal to be performed by a qualified appraiser acceptable to the Town. The Town Council shall compare the appraisal with the standards established by the Town and shall determine the amount to be reimbursed.

13.5.12 Accounting Procedures for Park Improvement Fees

13.5.12.1 All park fee payments shall be segregated in a separate fund to be spent only for the improvement of Park Facilities within the Town that will meet the needs of the residents of the development or subdivision in respect of which such payment was made.

13.5.12.2 The Town shall maintain and keep financial records for park fees, which shall show the source and disbursement of all fees collected.

13.5.13 Refunds of Park Improvement Fees

13.5.13.1 The current owner of property on which a park fee has been paid may apply for a refund of such fee if:

- 13.5.13.1a The property on which a park fee has been paid has not been served by Park Facilities, as provided herein.
- 13.5.13.1b Only the current owner of property may petition for a refund. A petition for refund may be filed within six (6) months of the event giving rise to the right to claim a refund.
- 13.5.13.1c The request for refund must be submitted to the Town Administrator or his/her designee. The request must contain: A certified copy of the latest recorded deed for the subject property; current legal description; and a statement of the reasons for which a refund is sought.
- 13.5.13.1d A refund shall be paid only if the Town Administrator determines that the total park fee collected for the residential development for which a refund is being sought exceeds the total expenditures from the park fee account for a period of ten (10) years from the date of collection of the park fee ("excess amount"). The refund amount shall be the development's pro rata share of the excess of fees collected over expenditures. The Town may periodically compute the difference between expenditures and fees collected for purposes of reviewing refund requests under this subsection. After the expiration of at least six (6) months after refunds are due under this Subsection, the Town Council may, after notice by publication in the section of a local newspaper reserved for legal notices, and after a public hearing, vote to apply any unclaimed excess amounts to the acquisition or construction of any Park Facilities that will benefit the Town. When the Town Council votes to apply the excess amounts, the right to refund of the applied excess amounts shall be extinguished.
- 13.5.13.1e Within forty-five (45) days of the date of receipt of a petition for refund, the Town Administrator must provide the petitioner, in writing, with a decision on the refund request. The decision must include the reasons for the decision. If a refund is due petitioner, the Town Administrator shall notify the Town's finance department and request that a refund payment be made to petitioner.

13.5.14 Appeals and Variances

- 13.5.14.1 The Developer may appeal the following decisions of the Town Administrator to the Town Council:
 - 13.5.14.1a The applicability of the park fee;
 - 13.5.14.1b The amount of the fee due; or
 - 13.5.14.1c The amount of refund due, if any;

The burden of proof is on the appellant to demonstrate that the amount of the fee, the amount of the credit or reimbursement was not calculated according to the applicable schedule of fees or the guidelines established for determining such amounts. The appellant must file a notice of appeal with the Town Council within thirty (30) days following the determination by the Town Administrator. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the Town Attorney in an amount equal to the park fee due as calculated by the Town Administrator, the development application shall be processed. The filing of an appeal shall not stay the collection of the fee due, unless a bond or other sufficient surety has been filed.

13.5.14.2 The Town Council may grant a variance from any requirements of this Section, upon written request by a Property Owner subject to this Section, following a public hearing, and only upon a finding that a strict application of such requirement would result in a substantial hardship which is not common to similarly situated Property Owners.

13.5.15 Park fee as additional and supplemental requirement.

The park fee is additional and supplemental to and not in substitution of any other requirements imposed by the Town on the residential development of the land.

14. MAJOR CREEKS

14.1. Base Flood Plain Restrictions - For the health, safety, and welfare of the present and future population of the Town and for the conservation of water, drainage, and sanitary facilities, the Town prohibits development of any portion of the property which lies within the Base Flood Plain of any Major Creek. These Major Creeks shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste or material, or stumps, except at the discretion of the Town.

14.2. Major Creek Restrictions – The Major Creeks shall be in an open natural condition beginning at the headwater (as determined by the Federal Emergency Management Agency and/or the U.S. Army Corps of Engineers) of each Major Creek. Each Major Creek is subject to the following requirements:

14.2.1 For single-family residential developments the Base Flood Plain must be dedicated on a Final Plat to the Town as a single lot or to an approved homeowner association (“HOA”), approved by the Town, pursuant to Subsection 14.2.2. The Base Flood Plain shall not be contained in a single-family residential lot. The Town Council may waive this dedication requirement for replats that were originally platted prior to the adoption of this requirement.

14.2.2 For single-family residential developments, the Base Flood Plain and/or Access Dedication, as defined herein, may be owned and maintained by an HOA. The HOA's by-laws and covenants, which must be approved by the Town and filed of record in the county land records where the property is located, shall provide: (i) for Town access for emergency vehicles, equipment and personnel and to

improve and/or maintain the Base Flood Plain and Access Dedication in the event they are not being properly maintained as determined by the Town Engineer, and (ii) provide that the HOA shall reimburse the Town for any and all costs incurred by the Town for maintenance. The Final Plat shall contain the following: (i) a grant allowing the Town access for emergency vehicles, equipment and personnel and to improve and/or maintain the Base Flood Plain and/or Access Dedication in the event they are not being properly maintained as determined by the Town Engineer; and (ii) an obligation that the HOA shall reimburse the Town for any and all costs incurred by the Town for maintenance.

14.2.3 For non-residential developments, the Base Flood Plain and/or Access Dedication, as defined herein, must be dedicated on the Final Plat as a single lot to the Town or to an approved property management entity, approved by the Town, pursuant to Subsection 14.2.4. The Town Council, in its discretion, may waive this dedication requirement for replats that were originally platted prior to the adoption of this requirement.

14.2.4 For non-residential developments, the Base Flood Plain and/or Access Dedication, as defined herein, may be owned and maintained by an property management entity and/or the Property Owner. The Final Plat shall contain the following: (i) a grant allowing the Town access for emergency vehicles, equipment and personnel and to improve and/or maintain the Base Flood Plain and/or Access Dedication in the event they are not being properly maintained as determined by the Town Engineer; and (ii) an obligation that the property management entity and/or the Property Owner shall reimburse the Town for any and all costs incurred by the Town for maintenance.

14.3 Residential Development Criteria Along Major Creeks:

14.3.1 A minimum of sixty percent (60%) of the linear frontage of the Base Flood Plain and/or Access Dedication in each Final Plat shall have adjacent to it one (1) or more of the following types of streets:

- (i) Parallel streets
- (ii) Loop streets
- (iii) Cul-de-sacs (more than two (2) consecutive cul-de-sacs without separation by a looped street or parallel street is prohibited). Refer to Section 13 regarding access width to Base Flood Plain and/or Access Dedication.
- (iv) Any lot that sides to the Base Flood Plain and/or Access Dedication shall have a side yard setback of fifteen (15) feet.

14.3.2 A maximum of forty percent (40%) of the linear frontage of the Base Flood Plain and/or Access Dedication in each Final Plat may have lots backing to a Major Creek. When a lot backs to a Major Creek the following is required:

- (i) Any lot that backs to the Base Flood Plain and/or Access Dedication shall have a rear yard setback of twenty-five (25) feet;
- (ii) Alternating cul-de-sacs and looped streets shall be provided at intervals not to exceed twelve-hundred (1,200) feet for access to the Base Flood Plain and/or Access Dedication; and
- (iii) The Base Flood Plain and/or Access Dedication shall be available to public access from the end of a cul-de-sac in the manner required in Section 13.

14.3.3 Section 14.3.1 does not apply to properties which have an approved concept plan that is part of a planned development ordinance adopted prior to the effective date

of this Ordinance; provided, however, said properties are subject to the following conditions:

- (i) Any lot that backs to the Base Flood Plain and/or Access Dedication shall have a rear yard setback of twenty-five (25) feet;
- (ii) Any lot that sides to the Base Flood Plain and/or Access Dedication shall have a side yard setback of fifteen (15) feet.
- (iii) Alternating cul-de-sacs and looped streets shall be provided at intervals not to exceed twelve-hundred (1,200) feet for access to the Base Flood Plain and/or Access Dedication; and
- (iv) The Base Flood Plain and/or Access Dedication shall be available to public access from the end of a cul-de-sac in the manner required in Section 13.

14.3.4 Properties adjacent to a golf course that exist or are under construction on the date of filing a Preliminary Plat (“under construction” shall mean the Town Engineer has issued a permit for full release and dirt work is being performed on the site), shall be allowed to have lots backing to the Base Flood Plain and/or Access Dedication subject to the following conditions:

- (i) Any lot that backs to the Base Flood Plain and/or Access Dedication shall have a rear yard setback of twenty-five (25) feet;
- (ii) Any lot that sides to the Base Flood Plain and/or Access Dedication shall have a side yard setback of fifteen (15) feet.
- (iii) Alternating cul-de-sacs and looped streets shall be provided at intervals not to exceed twelve-hundred (1,200) feet for access to the Base Flood Plain and/or Access Dedication; and
- (iv) The Base Flood Plain and/or Access Dedication shall be available to public access from the end of a cul-de-sac in the manner required in Section 13.

14.3.5 The proposed street alignment fronting on Town parks is subject to Town approval.

14.3.6 Residential lots that are allowed to back or side to the Base Flood Plain and/or Access Dedication shall have an ornamental metal fence along the rear and side of the lots subject to Town review and approval. The lot owner is responsible for the maintenance of the fence.

14.3.7 A no-build and preservation easement(s) shall be provided on lots and open space lots as shown on the Final Plat to preserve topography and vegetation (the “no-build and preservation easement(s)”). A minimum twenty (20) foot building setback shall be provided adjacent to the no-build and preservation easement(s). Pools and decks shall be permitted within the twenty (20) foot setback, but not in the no-build and preservation easement(s), within the platted lot, and shall meet the minimum setbacks as specified in the Zoning Ordinance, and any amendments thereto. Neither grade changes nor vegetation removal shall occur within the no-build and preservation easement(s) without prior Town Engineer approval.

14.3.8 At the request of the Town, the Property Owner shall submit the following documents with the Preliminary Plat that includes property along a Major Creek:

- (i) Wetland Delineation Study;
- (ii) Habitat Study; and
- (iii) Vegetative Study

These studies shall be considered in the review of the Preliminary Plat regarding development along a Major Creek.

14.4 Streets

The size of streets adjacent to the Base Flood Plain and/or Access Dedication shall have a minimum right-of-way width of fifty (50) feet. The Town shall participate in fifty percent (50%) of the paving costs when the Town determines that a collector size street, sixty (60) feet of right-of-way width, is necessary.

14.5 Maintenance and Access Dedication

The Property Owner or Subdivider must provide sufficient access on each side of and parallel to the Base Flood Plain of each Major Creek for Town access for emergency vehicles, equipment and personnel and to improve and/or maintain the Base Flood Plain. The access shall be above the Base Flood Plain elevation. Streets and alleys abutting the Base Flood Plain may substitute for the Access Dedication subject to Town Engineer approval. Access to the Access Dedication must also be provided at a maximum twelve hundred (1,200) foot spacing along streets or alleys. The Town Engineer shall determine the location and size of the Access Dedication. The minimum width of the Access Dedication shall be twelve (12) feet. Permanent monuments, the type and location of which will be determined by Town Engineer, shall be placed by the Property Owner along the boundaries of the Access Dedication and private property.

14.6 Appeal from Requirements of Section 14.0 Major Creeks

14.6.1 An appeal for relief from the regulations set forth in Section 14.0 may be made to and shall be considered by the Town Council.

14.6.2 Any appeal must be submitted in writing to the Town Council with submission of a Preliminary Plat. The appeal, at a minimum, shall specifically identify the regulation complained of, the relief requested, and the evidence to support the relief requested.

14.6.3 The Subdivider has the burden of proof to establish by clear and convincing evidence that a proposed regulation set forth in Section 14 does not meet constitutional guarantees and/or statutory requirements.

14.6.4 If the Subdivider meets its burden of proof, the Town Council shall have the right to grant relief from the regulations set forth in Section 14.

15. WHERE SUBDIVISION IS UNIT OF A LARGER TRACT

15.1 Where the proposed subdivision constitutes a unit of a larger tract owned by the Subdivider, which is intended to be subsequently subdivided as additional units by the same subdivision, the Preliminary and Final Plats shall be accompanied by a layout of the entire area, showing the tentative proposed layout of streets, blocks, drainage, water, sewage, and other improvements for such areas.

15.2 The overall layout, if approved by the Commission, shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the Planning and Zoning Commission. Thereafter, plats of subsequent units of such subdivision shall conform to such approved overall layout, unless changed by the Commission. However, except where the Subdivider agrees to such change, the Commission may change such approved overall layout only when the Commission finds:

15.2.1 That adherence to the previously approved overall layout will hinder the orderly subdivision of other land in the area in accordance with the provisions of this Ordinance; or

15.2.2 That adherence to the previously approved overall layout will be detrimental to the public health, safety or welfare, or will be injurious to other property in the area.

16. **AUTHORITY OF THE PLANNING AND ZONING COMMISSION**

The Commission, if existing, is hereby authorized and directed to promulgate rules, regulations, standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities and crosswalk ways that are consistent with this Ordinance, and shall be subject to Town Council approval. They shall file same with the Town Secretary at least thirty (30) days before they become effective. They may amend the same from time to time, provided that an amendment must be filed with the Town Secretary at least thirty (30) days before it becomes effective and shall be subject to Town Council approval. No such rules, regulations, standards and specifications shall conflict with this or any Ordinances of the Town of Prosper, Texas. All such improvement shall be constructed, installed, designed, located and arranged by the Subdivider in accordance with such rules, regulations, standards and specifications.

Exhibit #1 for 7.09 (15)

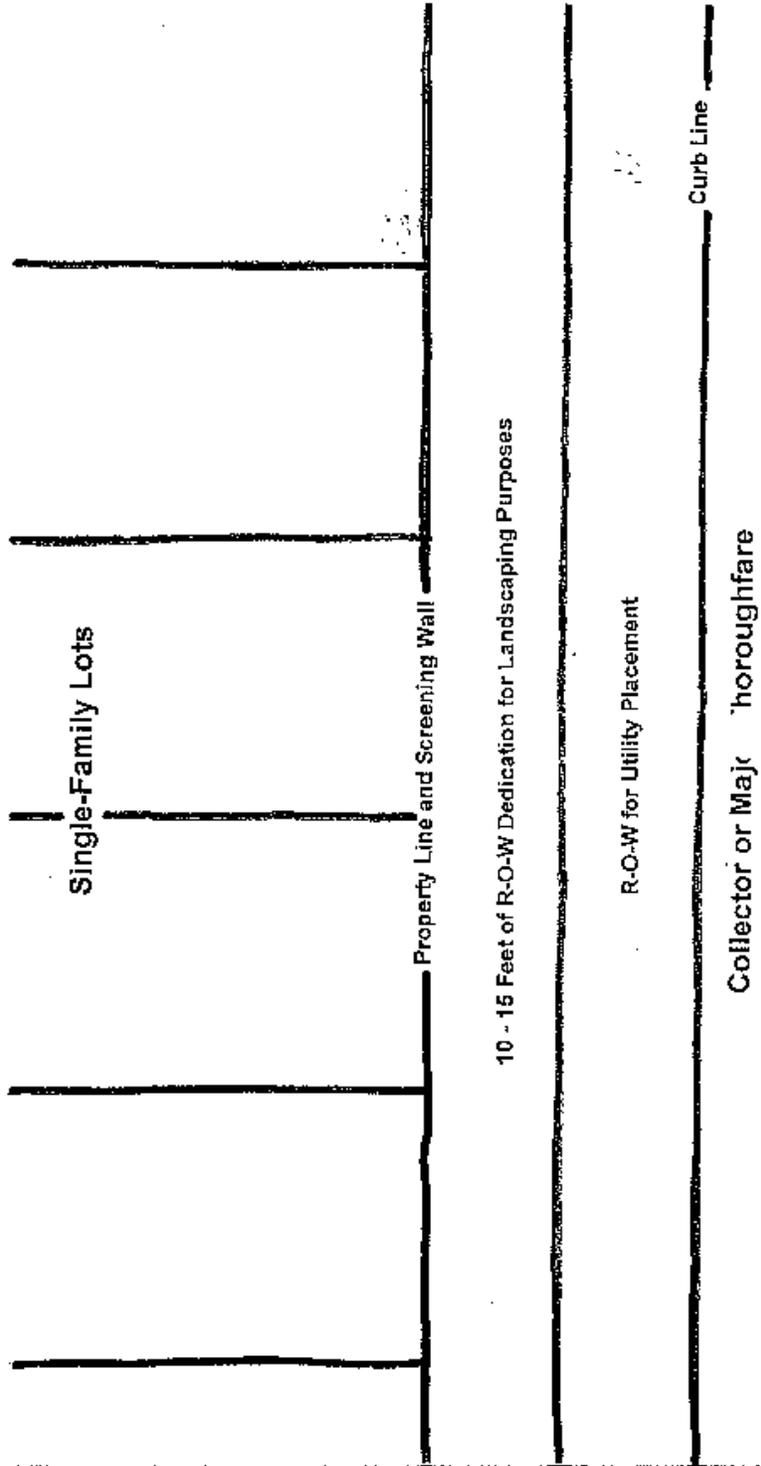


Exhibit #2 for 7.09 (15)

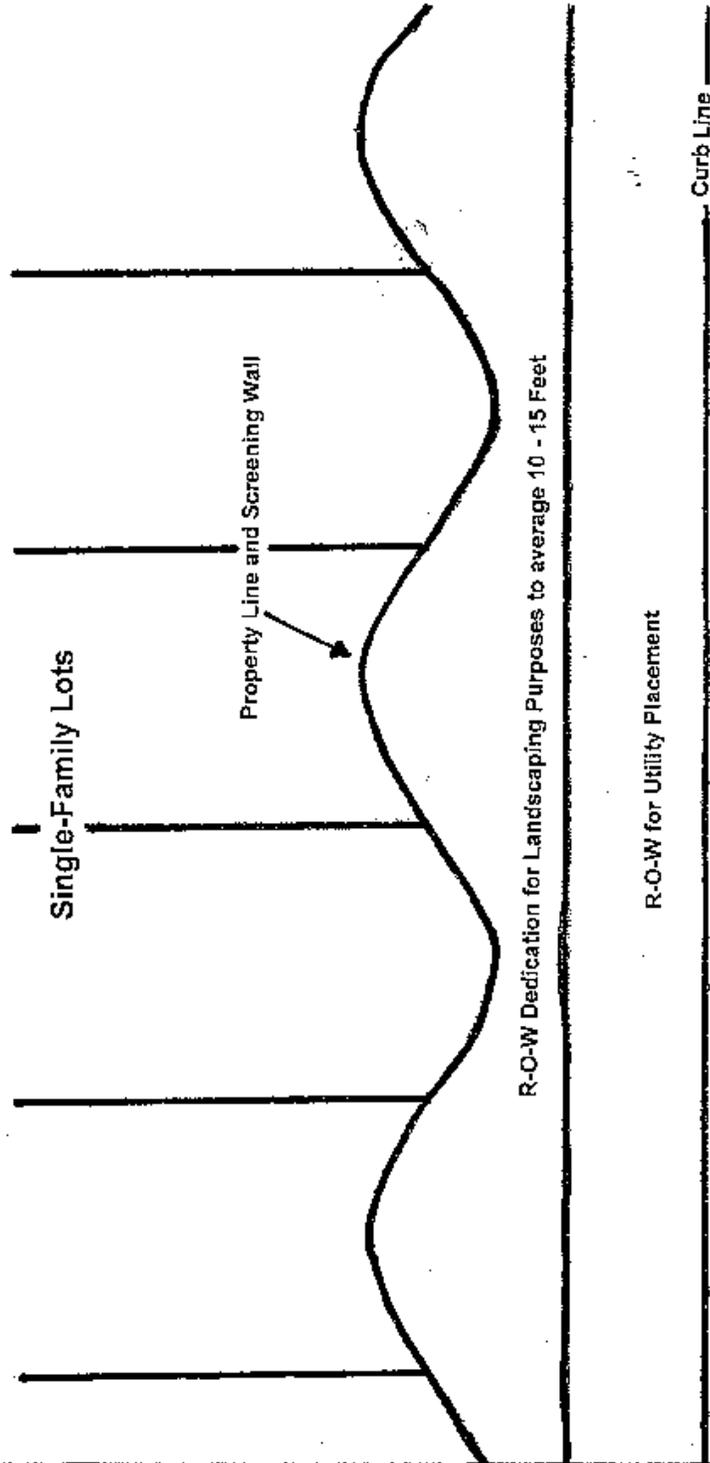


Exhibit #3 for 7.09 (15)

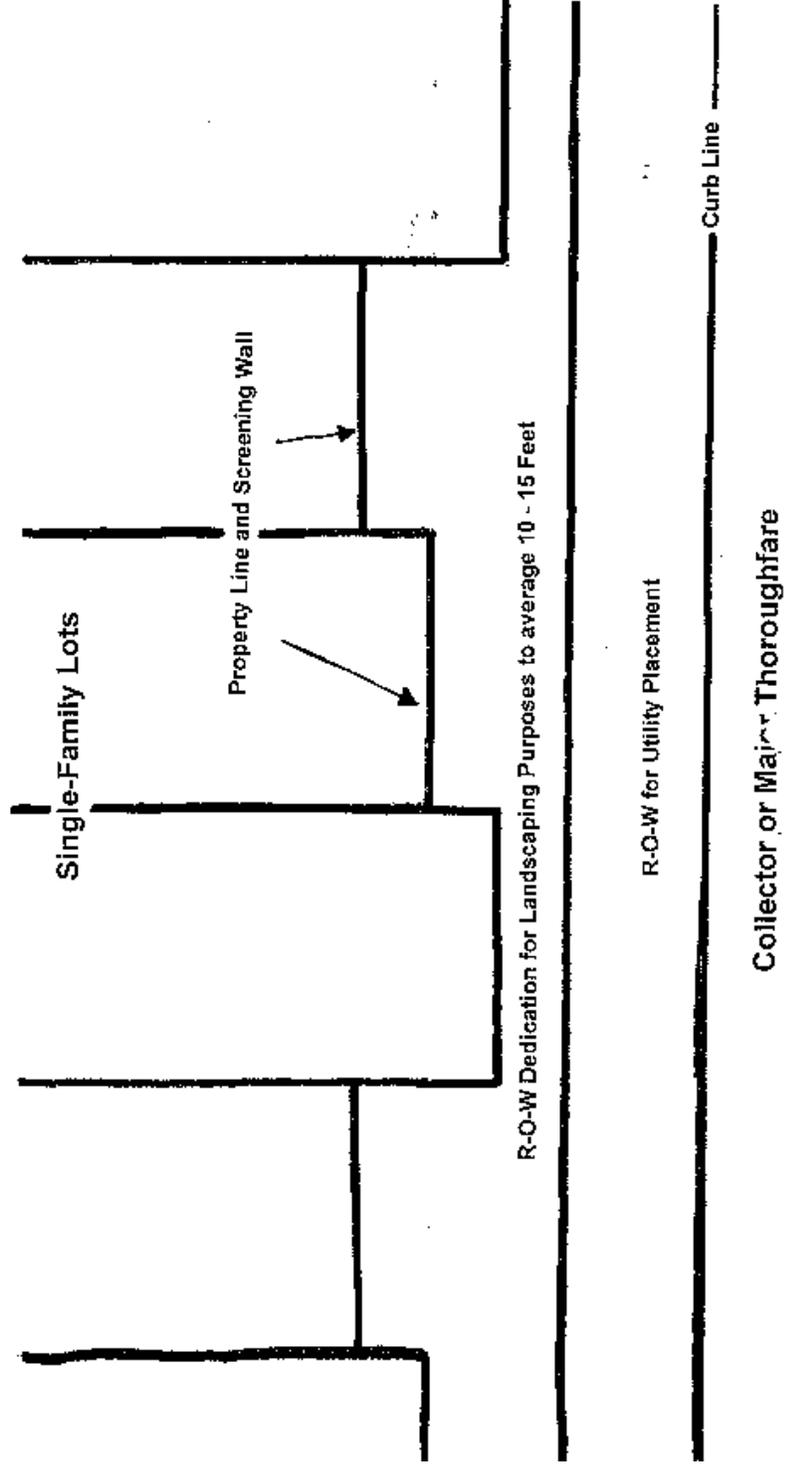


Exhibit #4 for 7.09 (15)

