

# CITY OF BELLAIRE TEXAS

## BUILDING AND STANDARDS COMMISSION

JULY 27, 2016

Council Chamber	Regular Session	7:00 PM
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7008 S. RICE AVENUE  
BELLAIRE, TX 77401



### Chairman

Laura Thurmond

### Commissioner

Mike Baker

### Commissioner

Paul Katz

### Vice Chairman

Danny Spencer

### Commissioner

Charles Formica

### Commissioner

Burt Martin

### Commissioner

Lee Hampton

### Mission Statement:

*The City of Bellaire is dedicated to outstanding quality service and facilities to ensure an open, progressive, and secure community.*

**A. CALL TO ORDER****B. ANNOUNCEMENT OF QUORUM****C. RULES FOR PUBLIC COMMENT**

1. Sign up forms will be available at all Regular and Special Meetings for registering the names of members of the Public who wish to either: i) speak on an agenda item, provided such items have not been the subject of a prior public hearing; or ii) make a general comment related to the Commission business. These forms will be given to the Secretary prior to the start of the meeting so that the person's name can be called to address the Commission at the appropriate time.
2. Public Comments on agenda items will be made at the time an agenda item appears in the Order of Business, and before the Commission's consideration of that item.
3. Public Comments of a general nature shall be made at the time designated by the Order of Business.
4. All Public Comments shall be limited to six (6) minutes per speaker with extensions of two (2) minute increments as approved by a majority vote of Commission members present.
5. Public Comments at Workshop Meetings will be allowed at the discretion of the Chair. Any comments will be limited as described in Article IV Sec 8.

**D. APPROVAL OR CORRECTION OF THE MINUTES**

1. Building and Standards Commission - Regular Session - Jun 22, 2016 7:00 PM

**E. PUBLIC COMMENT****F. UNFINISHED BUSINESS, COMMUNICATIONS, AND REPORTS****G. SWEARING IN OF NEW COMMISSIONERS****H. INCOMING COMMISSION**

1. Introduction of Incoming Commissioners
2. Election of Chair and Vice Chair
3. Adoption of the Rules of Procedure
  - a. Rules of Procedure

**I. REPORT FROM THE BUILDING OFFICIAL****J. REPORTS OF COMMITTEES AND COMMUNICATIONS**

**1. Communications to Commission members outside of posted meetings.**

**K. OLD BUSINESS**

- 1. Presentation by David Batts, LEED AP & Director of Systems Solutions at Construction EcoServices, on low impact development as it relates to drainage and paving systems.**

**L. NEW BUSINESS**

- 1. The Chair shall recognize any Commissioner who wishes to bring New Business to the attention of the Commission. Consideration of New Business shall be for the limited purpose of determining whether the matter is appropriate for inclusion on a future Agenda of the Commission, or for referral to Staff for investigation.**

**M. ANNOUNCEMENTS AND COMMENTS BY COMMISSIONERS**

**N. ADJOURNMENT**



# CITY OF BELLAIRE TEXAS

## BUILDING AND STANDARDS COMMISSION

JUNE 22, 2016

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

### I. REGULAR SESSION

#### A. Call to Order

Chairman Thurmond called the meeting to order at 7:02 PM.

#### B. Announcement of Quorum

Chairman Thurmond announced that a quorum was present, consisting of the following members:

Attendee Name	Title	Status	Arrived
Laura Thurmond	Chairman	Present	
Paul Katz	Commissioner	Present	
Burt Martin	Commissioner	Present	
Mike Baker	Commissioner	Present	
Danny Spencer	Vice Chairman	Present	
Lee Hampton	Commissioner	Present	
Charles Formica	Commissioner	Present	
John McDonald	Director	Present	
Ashley Parcus	Secretary	Present	
David R. Montague	Council Member	Present	

#### C. Rules for Public Comment

Chairman Thurmond mentioned that the Rules for Public Comment were listed on the agenda.

- 1. Sign up forms will be available at all Regular and Special meetings for registering the names of members of the Public who wish to either: i) speak on an agenda item, provided such items have not been the subject of a prior public hearing; or ii) make a general comment related to the Commission business. These forms will be given to the Secretary prior to the start of the meeting so that the person's name can be called to address the Commission at the appropriate time.**
- 2. Public Comments on agenda items will be made at the time an agenda item appears in the Order of Business and before the Commission's consideration of that item.**
- 3. Public Comments of a general nature shall be made at the time designated by the Order of Business.**

Minutes Acceptance: Minutes of Jun 22, 2016 7:00 PM (Approval or Correction of the Minutes)

4. **All public comments shall be limited to six (6) minutes per speaker with extensions of two (2) minute increments as approved by a majority vote of Commission members present.**
5. **Public Comment at Workshop meetings will be allowed at the discretion of the Chair. Any comments will be limited as described in Article IV Sec 8.**

#### **D. Approval or Correction of the Minutes**

1. Building and Standards Commission - Regular Session - Apr 27, 2016 7:00 PM

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Charles Formica, Commissioner
<b>SECONDER:</b>	Mike Baker, Commissioner
<b>AYES:</b>	Thurmond, Katz, Martin, Baker, Spencer, Hampton, Formica

#### **E. Public Comment**

There was no public comment.

#### **F. Report from Building Official**

Mr. McDonald introduced William Davidson as the City's new Building Official. He explained that Mr. Davidson began working for the City of Bellaire about 4 years ago as a Permit Technician, and with some background in construction was promoted to Building Inspector 2 years ago under former Building Official, Lee Cabello. Mr. McDonald added that Mr. Davidson was named Interim Building Official once Mr. Cabello retired in September of 2015, and was officially named Building Inspector in April of this year.

Mr. Davidson mentioned that the Commission had previously asked about flood damage to properties within the City during the Tax Day Flood event. He informed them that there had been no change in the numbers that were given to them from the last meeting, 20 residential and 2 commercial properties, and that no one has applied for a permit as of yet.

Mr. McDonald informed the Commission that the City did apply for a grant for FEMA through the Texas Water Development Board. He stated that five properties were submitted that staff felt might have a good chance of meeting the requirements, however, the official decision has not yet been made. Mr. McDonald added that staff does believe that without the financial aid, there will be a couple of homes that will fall under the 50% rule. He stated those will be dealt with once the final outcome of the grant is known.

Chairman Thurmond asked how the homeowner would go about procuring the services if they did receive grant money.

Mr. McDonald explained that the homeowner would hire the workers themselves, but the City would monitor the process and complete the necessary paperwork. He also pointed out that staff would go out and do frequent inspections of the job sites in order to ensure that the work was being completed as approved. Mr. McDonald stated that there is a 5% surcharge that the City is allowed to include in the application in order to handle those costs.

Commissioner Formica asked if the full cost of raising the property included in the grant.

Mr. McDonald explained that the grant is a 75% contribution, with a required match of the remaining 25%.

Vice Chairman Spencer mentioned the fact that no flood damage permits had been applied for and asked for clarification on what that means with regard to the level of damage to the homes.

Mr. Davidson explained that there could have simply been damage to the paint or carpet, which are two things that are allowed to be repaired without a permit.

Mr. McDonald reiterated that the two homes that are potentially "total losses" are waiting to see the outcome of the grant prior to applying for permits.

## **G. Reports of Committees and Communications**

### **1. Communications to Commission members outside of posted meetings**

There were no communications to report.

### **2. Committee Reports**

There were no committee reports.

### **3. Reports from Staff other than the Building Official**

Mr. McDonald informed the Commission that there are a couple of properties at Newcastle and Bissonnet, one that was approved for a planned development and the other for a commercial medical office building, that are now tied up in a legal challenge. He added that it has gone all the way to the Texas Supreme Court and that staff is continuing to stay updated on the status of the case.

Mr. McDonald also explained that the City Council had recently approved an ordinance that will require builders to install sidewalks on all new construction, including residential, effective July 1st. He added that the builders have been notified about that requirement. Mr. McDonald then informed the Commission that the City Council has also directed the City Manager to come up with an interim sidewalk plan until implementation of the Community Pathways Plan has begun. He stated that the City Manager will be working with the City Engineer, the Public Works Director, and himself to identify routes and possible funding mechanisms to begin filling in the gaps in areas where sidewalks have begun through the years, but have never been connected all the way through. Mr. McDonald mentioned that it will be going back to Council in early August for further consideration.

Council Member Montague felt that the direction from Council was to essentially come up with a comprehensive plan through the filling in of sidewalks in the areas not included in the 2013 sidewalk study, as well as the implementation of the requirement for sidewalks at all new construction sites. He stated that Council was direct in asking for what the total scope of the program would be in order to get sidewalks installed throughout Bellaire. He cautioned staff not to bring Council half a plan.

Chairman Thurmond mentioned that it seems as though the plan has been to install a sidewalk on one side of the street and asked if the City was moving towards the idea of installing sidewalks on both sides.

Mr. McDonald stated that the current programs would not accomplish that. He explained that right now the idea is to start making connections and focusing on getting a sidewalk on one side of all of the streets throughout the City.

Chairman Thurmond mentioned that her street currently has a new, complete sidewalk on the south side of the street and no sidewalks on the north side. She was concerned that the newly adopted ordinance for new construction would create inconsistencies on the north side of the street by requiring that a sidewalk be installed where there are no others.

Mr. McDonald explained that although it may not happen in the next couple years, at some point all of the sidewalks will be connected. He added that any sidewalks that are already installed will save the City a significant amount of money.

## H. Old Business

### 1. Discussion on drainage issues within the City of Bellaire, to include the use of pervious concrete and paver systems as an alternate method of addressing lot coverage requirements.

Mr. McDonald informed the Commission that he has been working on getting someone in the related field to come and speak to the Commission. He added that he believes that he has finally gotten through to some people, it just was not in time for this meeting. Mr. McDonald stated that he knew the Commission was hoping to stay away from individuals within the industry, but he felt that it was inevitable. He stated that he spoke with a representative from a company that focuses more on sustainable design and development and that they are preparing some information for him to review. Mr. McDonald added that he has also spoken with someone from Texas Bomanite who seemed in favor of the idea of coming in to speak to the Commission. He stated that he reached out to the Texas Masonry Council, as well as other local green design groups that have not followed up with him. Mr. McDonald mentioned that staff usually tries to keep the July agendas light due to the change over of the Commission, but asked if they would like for him to see what he could do about scheduling a speaker for that night.

The Commission agreed that scheduling a speaker for the July meeting would be a good idea.

Mr. McDonald reiterated that staff is asking the Commission to look into this due to the fact that the City of Bellaire currently gives no credit for the use of pervious concrete or pavers, where as the City of Houston and some other surrounding cities do. He added that in most residential areas within the City of Bellaire there is a maximum lot coverage of 55%, which takes into consideration drainage protection, aesthetics, and controlling the density of the site. Mr. McDonald added that the issue has been with the fact that Bellaire has clay soil and poor drainage. He added that the thought is that after a couple of years these systems get filled with silt and increase the amount of runoff. Mr. McDonald explained that staff isn't sure yet how the credit would be given, if it could possibly be tied to the residential drainage plan, or if it would be implemented in a different way. He stated that James Andrews, the City Engineer, is currently conducting a drainage study that will be presented to Council at the end of July, or early August. Mr. McDonald stated that the study takes a look at where the trouble areas are, and the relationship with the bayou, etc. Mr. McDonald mentioned that he would like to get Mr. Andrews to come and speak to the Commission after his presentation to City Council. He added that ultimately this will feed into the update of the City's Floodplain Management Plan, which gets submitted to FEMA. Mr. McDonald felt that there should be a place for a representative of the

Commission to be on that team. He explained that the idea is to come up with a plan moving forward that would help to reduce the flooding potential in Bellaire, as well as potentially improve the City's CRS rating.

## **I. New Business**

- 1. The Chair shall recognize any Commissioner who wishes to bring New Business to the attention of the Commission. Consideration of New Business shall be for the limited purpose of determining whether the matter is appropriate for inclusion on a future agenda of the Commission or referral to Staff for investigation.**

No new business was brought to the attention of the Commission.

## **J. Public Hearings**

There were no public hearings.

## **K. Announcements & Comments by Commissioners**

Mr. McDonald informed the Commission that the City will be holding a Board and Commission Training Session on Thursday, July 28th, at 6:30pm. He explained that although everyone is encouraged to attend, it is only required for new members and members who are being re-appointed. Mr. McDonald added that there will be Commission specific training on an agenda in the near future.

Chairman Thurmond asked how the no net fill ordinance applies to Evelyn's Park.

Mr. Davidson explained that the no net fill ordinance mainly applies to residential.

Mr. McDonald agreed and added that it has been allowed some in-house waivers due to the fact that it is a City park and that the no net fill ordinance does not necessarily apply. He and Mr. Davidson also mentioned that there will be built-in detention and that the grading plan was reviewed by the City Engineer. Mr. McDonald assured the Commission that it has still gone through the appropriate review process.

## **L. Adjournment**

**Motion:** a motion was made by Commissioner Formica and seconded by Commissioner Martin to adjourn the regular meeting.

**Vote:** the motion carried on a unanimous vote of 7-0.

**The meeting was adjourned at 7:39 PM.**



**Building and Standards  
Commission**

Council Chamber, First Floor of City  
Hall  
Bellaire, TX 77401



Meeting: 07/27/16 07:00 PM  
Department: Development Services  
Category: Policy  
Department Head: John McDonald  
DOC ID: 1980

**SCHEDULED  
ACTION ITEM (ID # 1980)**

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**Item Title:**

Rules of Procedure

**Background/Summary:**

The Commission is required to adopt the Rules of Procedure at the beginning of each new term.

A copy of the current rules is attached.

**ATTACHMENTS:**

- Rules of Procedure 2015 (PDF)

# **Building and Standards Commission**

**Bellaire, Texas**

## **Rules of Procedure**

**Last Revised March 2015**

**Adopted July 2015**

**Attachment: Rules of Procedure 2015 (1980 : Rules of Procedure)**

**Building and Standards Commission Rules of Procedure**  
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# RULES OF PROCEDURE OF THE BUILDING AND STANDARDS COMMISSION OF THE CITY OF BELLAIRE, TEXAS

These Rules of Procedure for the Building and Standards Commission are adopted in accordance with the requirements of Chapters 54 and 214 of the Local Government Code of the State of Texas and Sections 9-78 to 9-90 of the Code of Ordinances of the City of Bellaire, Texas. In the event that any of these rules conflict with provisions of the local and state codes, the local and state codes shall prevail.

## **Article I. Duties and Responsibilities**

The Building and Standards Commission is a quasi-judicial body and as such hears testimony and makes decisions regarding the removal or rehabilitation of substandard buildings, structures, materials variances from minimum floodplain management standards; and other real property improvements in the community. In addition, the Commission is responsible for reviewing and making recommendations to City Council on revisions to the City's Building Code and providing an Annual Report to the City Council each February.

## **Article II. Board Membership**

- Sec. 1. Number of Commissioners and Term. The Commission consists of seven (7) members who are appointed by the City Council for two-year terms, beginning on July 1 of each year, on a staggered basis. This is intended to ensure that at least two of the members have previously served. No member shall serve more than three (3) consecutive terms.
- Sec. 2. Definition of a Quorum. A quorum of the Commission shall be a majority of the Commission (or four (4) members of a seven (7) member Commission).
- Sec. 3. Attendance Requirement. Notwithstanding any other provision of the Code, any Commission member shall be automatically removed if, in a given calendar year, he or she is absent from three consecutive regular meetings; a member of the Commission shall be deemed absent from a meeting when he or she is not present at the meeting at least 75 percent of its duration. If any Commission member is absent from three (3) consecutive Regular meetings, the Chair shall promptly notify City Council of these absences. Upon finding of good cause, the provisions of this Section may be waived by a majority vote of the members of the Commission.
- Sec. 4. Inability to attend meeting It is the responsibility of Commission members to notify the Chair at least 24 hours before a Regular meeting by telephone or email, if the member will not be able to attend the posted Regular meeting.

## **Article III. Chair and Vice-Chair**

- Sec. 1. Election. At the first meeting of the Commission after July 1 at which a quorum is present following the swearing in of new members, the Board shall elect a Chair and Vice-Chair for a term of one (1) year by a majority vote of the Commission (four (4) votes).
- Sec. 2. Chair Duties. The Chair shall, subject to these rules, and further instructions of the Commission:
- a. preside over all meetings of the Commission;
  - b. transact the official business of the Commission;

- c. request assistance of City Staff, as required;
- d. direct the work of all consultants; and
- e. be the sole Spokesperson for the Commission.

Sec. 3. Vice-Chair Duties. In the absence of the Chair the Vice-Chair will serve as Chair. If both the Chair and Vice-Chair are absent from a meeting at which a quorum is present, the quorum shall elect an acting Chair for that meeting.

#### **Article IV. Meetings**

Sec. 1. Date and Time. Regular meetings of the Commission shall be held monthly at 7:00 PM or the fourth (4<sup>th</sup>) Wednesday unless modified by the City of Bellaire. Regular meetings will take place at the City Hall, 7008 South Rice Avenue, Bellaire, Texas, in the Council Chambers.

Sec. 2. Change of Date. Dates for Regular meetings may be changed for a given month, if necessary, in order to conduct Commission business, by a majority vote of the members at a prior meeting.

Sec. 3. Special Meetings. Special meetings in addition to the Regular monthly meetings may be called by the Chair, or upon request to the Chair by two Commission members or the Building Official.

Sec. 4. Meeting Procedure. Regular and Special meetings of the Commission shall be conducted according to these Rules of Procedure as well as *Robert's Rules of Order Newly Revised* when not inconsistent with these Rules of Procedure.

Sec. 5. First Meeting of a New Commission. The first meeting of a new Commission shall be a joint meeting of the outgoing Commission and the incoming Commission. The Chair of the outgoing Commission shall call the meeting to order and shall preside until the Chair of the incoming Commission is elected. The meeting will be conducted in two parts according to the Agendas and conduct established by the Chair and Staff Liaison and shall include but not be limited to the following:

- (1) Meeting of the Outgoing Commission
  - I. Unfinished Business, Minutes, Communications and Reports
  - II. Swearing In of New Commissioners (incoming Commission assumes duties and outgoing Commission retires)
- (2) Meeting of the Incoming Commission  
The meeting of the incoming Commission shall proceed as a Regular Meeting, with Current Business to include (1) Introduction of Incoming Commissioners, (2) Election of Chair and Vice Chair, and (3) Adoption of Rules of Procedure.

Sec. 6. Workshops. Commission Workshops may be held for the purpose of discussing issues relating to the City of Bellaire Building Codes or other matters pertinent to carrying out the responsibilities of the Commission. Experts may be invited to these Workshops to provide input to the Commission. Action shall not be taken at Workshops on Commission

business normally transacted at Regular or Special meetings. These matters shall be referred to a Regular or Special meeting for action.

One of the Commission Members shall prepare a summary of the Workshop proceedings for the purpose of keeping a record. The summary shall be reviewed at the subsequent regular meeting and entered into the meeting minutes as an attachment.

- Sec. 7. Meeting Agenda. The Chair shall set the agenda for all meetings. Agenda items submitted by members to the Chair or Building Official at least seven (7) days prior to the meeting date shall appear on the agenda. Documentation that supports/is related to the various agenda items is to be sent to Commission members preferably seventy-two (72) hours before the posted meeting.
- Sec. 8. Meeting Notice. Notice of the time, location and agenda for all Regular, Special, and Workshop meetings shall be given in conformance with the Texas Open Meetings Act and City Policy.
- Sec. 9. Public Comment
- a. Sign-up forms will be available at all Regular and Special meetings for registering the names of members of the Public who wish to either: i) speak on an agenda item provided such items have not been the subject of a prior public hearing; or ii) make a general comment related to the Commission business. These forms will be given to the Secretary prior to the start of the meeting so that the person's name can be called to address the Commission at the appropriate time.
  - b. Public comments on agenda items will be made at the time an agenda item appears in the Order of Business and before the Commission's consideration of that item.
  - c. Public comments of a general nature shall be made at the time designated by the Order of Business.
  - d. All public comments shall be limited to six (6) minutes per speaker with extensions of two (2) minute increments as approved by a majority vote of Commission members present.
  - e. Public comment at Workshop meetings will be allowed at the discretion of the Chair. Any comments will be limited as described in Article IV Sec. 8.
- Sec. 10. Quorum. A quorum of the Commission members must be present at all Regular, Special and Workshop meetings. In the absence of a quorum the meeting is cancelled.
- Sec. 11. Vote. Unless otherwise specified in these Rules, issues requiring a vote at Commission meetings will be decided by a majority vote of the members at the meeting.
- Sec. 12. Minutes The appointed Secretary shall keep minutes of each Regular and Special meeting. Such minutes are to be reviewed and approved at each subsequent Regular or Special meetings as a record of the proceedings of the previous meeting.

## ARTICLE V. Committees

- Sec. 1. Appointment of Committees. The Chair shall appoint committees as needed to carry out the responsibilities of the Commission. Committees other than Committees of the Whole shall consist of no more than three (3) Commission members. The Chair may also appoint additional committee members willing to serve, from within Bellaire or outside Bellaire. At the time a committee is appointed, the Chair shall state for the record a charge for the committee to consider or achieve, along with a target completion date.
- Sec. 2. Meeting Notice. Committee meetings shall be open to the public and meeting agenda notice posted at least 72 hours before the meeting.

## ARTICLE VI. Order of Business at Meetings

- Sec.1. Order of Business, Regular and Special Meetings. The Order of Business at all Regular and Special meetings of the Commission shall be as follows:
- A. Call to order
  - B. Announcement of a quorum  
The Chair shall announce that a quorum of the Commission is present and shall state, for the record, the names of all members present and absent.
  - C. Rules for Public Comment  
The Chair shall inform the public of the rules for public comments in Art. IV, Sec. 8.
  - D. Approval or correction of minutes  
The minutes of the previous meeting of the Commission shall be submitted to the Commission and shall either stand as submitted or be corrected and stand as corrected.
  - E. Public Comment  
The Chair shall recognize any person from the audience who has requested an opportunity to speak per Article IV, Sec. 8.
  - F. Report from Building Official
  - G. Reports of Committees and Communications
    1. Communications to Commission members outside of posted meetings
    2. Committee reports
    3. Reports from Staff other than the Building Official.
  - H. Old business  
Items of uncompleted business from previous meetings shall be addressed.
  - I. New business  
The Chair shall recognize any Commissioner who wishes to bring New Business to the attention of the Commission. Consideration of New Business shall be for the limited purpose of determining whether the matter is appropriate for inclusion on a future Agenda of the Commission or referral to Staff for investigation.
  - J. Public Hearings  
Hearings before the Commission shall be conducted according to the rules in Article VIII.
  - K. Announcements and Comments by Commissioners
  - L. Adjournment  
Upon a motion duly made and seconded, the Commission meeting will be adjourned by a majority vote of those members present.



- Sec. 2. Amending the Order of Business. The Chair, with the consent of a majority of the Commission members present at a meeting, may amend the order of business if it is in the best interest of carrying out the meeting agenda.
- Sec. 3. Order of Business at Workshops. The order of business at Workshops shall be determined by the Chair prior to each Workshop.

## **Article VII. Public Hearings**

### **Sec. 1. Initiation of Hearings by Members of the Public**

- A. Any person desiring to have a case heard by the Building and Standards Commission must first file the case with the Building Official on such forms or in such format as prescribed by the Building Official.
- B. The Building Official shall determine if probable cause exists to initiate a case before the Building and Standards Commission. The term "Probable Cause" as used herein shall be defined to mean the existence of sufficient facts and evidence to constitute a reasonable inference that a violation or potential violation of Bellaire City ordinance or building code exists of sufficient magnitude to warrant a hearing before the Commission. If the Building Official determines that no probable cause exists, no further action shall be taken on the complaint; except that the initiator of the complaint may take an appeal of such a determination to the City Manager, who shall proceed as in all other appeals to the City of Bellaire.

### **Sec. 2. Initiation of Hearings by the City of Bellaire**

Hearings may be initiated by the Commission or upon recommendation of the Building Official. For example, if a structure is identified as being a substandard structure and the owner does not correct the violation(s) at the Building Official's request, the Building Official will generally refer the case to the Building and Standards Commission for further action.

## **Article VIII. Procedure for Public Hearings**

- Sec. 1. Presentation by the City. The Building Official shall present all cases initiated by the City of Bellaire.
- Sec. 2. Notices. Notices shall be given to the owners of property that is the subject of a case before the Building and Standards Commission and to any other necessary parties by the Secretary of the Building and Standards Commission or by the Building Official or Assistant Building Official as required by Chapters 54 and 214 of the Local Government Code of the State of Texas.
- Sec. 3. Swearing of Witnesses; Parties in Interest. Prior to the commencement of any case witnesses may be sworn if deemed necessary and desirable by a majority of Building and Standards Commission members present at the hearing. If the Commission requires oath all parties in interest and any citizen appearing and offering comments on the case, shall be required to be sworn prior to offering any testimony.

A party in interest shall be defined as the Building Official or any other representative or employee of the City of Bellaire, and the owner, mortgagee, mortgagor, or their representatives, of any properties or improvements which are subject of a case before the Commission.

- Sec. 4. Inspection of Properties. Commission members hearing a case before the Commission should inspect the property or properties that are the subject of a proceeding prior to deciding an issue. Additional inspections may also take place at the request of a majority of members. At the request of the Chair, or by request of a majority of members, one or more members may conduct investigations outside of a formal meeting for the purpose of aiding Commission deliberations pertaining to a case before it.
- Sec. 5. Need for a Quorum. A majority of the Commission must be present to hear a case.
- Sec. 6. Order of Proceedings. The following order of proceedings shall be observed in hearing all cases before the Building and Standards Commission:
- A. The Secretary of the Commission or the Chair shall read the petition previously filed with the Building and Standards Commission concerning the case.
  - B. The record shall identify all parties having an interest or claiming an interest in the property and reflect the manner and method in which the required statutory notice was given to all parties in interest.
  - C. The applicant (or their designated representative) shall present all evidence documents, testimony and professional opinions necessary to support and prove the case before the Commission. A time limit of fifteen (15) minutes shall be imposed on the testimony with five (5) minute extensions as granted by a majority vote of the Commission members hearing the case.
  - D. The Building Official or other designated representative of the City of Bellaire shall present evidence; documents, testimony and professional opinions necessary to either support and prove, or discredit and dispute the case before the Commission. A time limit of fifteen (15) minutes shall be imposed on the testimony with five (5) minute extensions as granted by a majority vote of the Commission members hearing the case.
  - E. Public comments on the case before the Commission shall be allowed in accordance with Article IV Section 8.
  - F. Rebuttal by applicant (or their designated representative) shall be allowed with a time limit of six (6) minutes with extensions of two (2) minutes as approved by a majority vote of the Commission members present.
  - G. The Building Official or representative of the City of Bellaire may ask questions of the applicant (or their designated representatives). The Commission members may ask questions of the applicant (or their designated representative) and the Building Official or other designated representative of the City of Bellaire.
  - G. Variance requests to CFR 44 Part 59-60, Section 60.6 related to flood hazard management shall be judged in accordance with criteria set out in attached Exhibit A.
  - H. The Chair shall then close the hearing and the Commission shall deliberate its decision. The Commission may carry out its deliberations and reach a decision either at the meeting at which the hearing was held or any subsequent Regular or Special meeting. Pursuant to Chapter 54 Texas Local Government Code, a majority vote of the members voting on a matter is necessary to take any action.

Sec. 7. Commission Decisions. The decision of the Commission shall be in the form of an order, which shall clearly express the decision. Certified copies shall be delivered and noticed in accordance with the requirements of the Local Government Code of the State of Texas. The Commission may impose conditions or time limitations on any decision reached, as well as directing any peace officer of the State to carry out its orders. The applicant has the right of appeal as based on the Local Government Code of the State of Texas.

## **Article IX. Precedents**

No decision of the Commission shall be deemed to set a precedent. Each case shall be decided on its merits and upon the consideration of the facts and circumstances and all other matters properly before the Commission.

## **Article X. Rehearings/Reconsiderations**

The Commission shall have the jurisdiction to rehear and/or reconsider cases previously decided. Any person seeking rehearing and/or reconsideration of a case shall file a written motion addressed to the Commission, specifying the grounds for rehearing and/or reconsideration. Motions must be filed within ninety (90) calendar days after the date a copy of the final decision of the Commission is delivered personally or by first class mail, return receipt requested to all persons requiring notice.

The Commission shall review all motions properly filed, and if deemed to be meritorious, may schedule a formal hearing.

## **Article XI. Commission Staff**

Sec. 1. Building Official Duties. The Building Official or his designee shall coordinate agendas, communications, meeting schedules, requisite public notices, and the maintenance of minutes and records of the Commission.

Sec. 2. Appointment of Secretary. The City Manager shall appoint the Secretary of the Building and Standards Commission who shall attend all Regular and Special meetings.

Sec. 3. Secretary Duties. The Secretary shall be responsible for:

- keeping meeting minutes;
- providing certified copies of the proceedings of the Building and Standards Commission upon payment of such cost as from time to time established by the City Manager of the City of Bellaire;
- conducting all correspondence of the Commission;
- publishing and sending out all notices and orders of the Commission; and
- maintaining the necessary files and indexes as public records.

## **Article XII. Making Recommendations to City Council**

Sec. 1. Research and Development. Once the Commission and/or City Staff recognizes the need to amend an item in the City of Bellaire Code of Ordinances, Chapter 9, Buildings the identifying party shall research the need and validity for introducing the amendment. Upon determining that a valid need for change exists, the party shall prepare proposal language for the ordinance and provide supporting documentation.

- Sec. 2. Public Introduction of Amendment. Upon developing the proposed amendment language, the ordinance change will be presented at a Regular or Special Meeting of the Commission. If the Commission votes to recommend the amendment to City Council, the proposed amendment will be posted on the City's website for a period of 45 days so that public input can be gathered and evaluated. The 45 day review period will start upon the appearance of the recommendation on a Regular or Special Meeting Agenda of the Commission.
- Sec. 3. City Council Action. Upon completion, the final proposal shall be put forth to City Council for action. The final draft should include a proposed effective date. If City Council votes in favor of the amendment, the ordinance shall be adopted as prescribed by state law.
- Sec. 4. Adoption. Ordinances having no penalties shall go into effect immediately. Amendments having penalties shall have a written effective date occurring within 10 days of publication.
- Sec. 5. Special Conditions. In the event of a special circumstance, the Commission reserves the right to waive the 45 day review period.

### **Article XIII. Amendments**

These Rules may be amended at any time by a majority vote of Commission members per Section 54.034(b) of the *Texas Local Government Code*. Amendments must be presented in writing at a regular meeting and voted on at a subsequent meeting. Amendments, unless otherwise stated in the amending motion, shall take effect immediately following the vote enacting them.

## EXHIBIT A

**VARIANCE CRITERIA**

The National Flood Insurance Program (NFIP) Regulations provide variance criteria to guide the community in providing administrative relief from the minimum floodplain management standards in case where they impose exceptional unnecessary hardship for a particular applicant. The hardship that would result from failure to grant a requested variance must be exceptional, unusual, and peculiar to the property involved.

Mere economic or financial hardship alone is not considered exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or disapproval of one's neighbors likewise do not qualify as exceptional hardships. All of these problems can be resolved through proper design and construction techniques without granting a variance.

Variances must not result in additional threats to public safety or create nuisances. Local floodplain management ordinances (including elevation requirements) are intended to help protect the health, safety, and well-being, and property of the local citizens. Granting variances allows buildings to be rebuilt that would then be subject to future flood damages. Future property owners, of the property and the community as a whole, are subject to all those costs, inconvenience, danger, and suffering that future floods bring.

Any variance granted must be minimum necessary, considering the flood hazard to alleviate the hardship. This means that, if a variance is granted, other measures must be taken to minimize potential flood damages to the building. The community can specify these measures as a condition for granting the variance. Granting a variance to all the requirements is contrary to the purpose of the NFIP where there are feasible alternatives to reducing the potential for future flood damages.

Because the duty and need of local governments to help protect their citizens from flooding is so compelling, and the implications of the cost of insuring building construction below the Base Flood Elevation (BFE or 100-year flood) are serious, variances from the BFE or from other requirements from the local floodplain management ordinance should be quite rare. In particular, with the potential for local businesses and homes being damaged by future floods, the implications go beyond the possible damage to the building. If the business is not immediately operational due to flood damage or abandoned homes, the implications will likely include loss of jobs and an eroding tax base. This impact not only results in extending the recovery process for property owners, but could also potentially jeopardize the long term economic viability of the community.

We must reiterate that consideration in granting a variance must be consistent with the guidelines provided in Section 60.6 of the National Flood Insurance Program Regulations and the objectives of assuring that sound floodplain management is carried out by a community. If a review of a community's enforcement procedures indicates a (variance) pattern inconsistent with the objectives of sound floodplain management, the community would be subject to probation and then suspension from the NFIP if the practice continued (reference Section 60.6(a) of the NFIP regulations).

## PART 60: CRITERIA FOR LAND MANAGEMENT AND USE

### Subpart A: Requirements for Flood Plain Management Regulations

#### 60.6 - Variances and exceptions.

(a) The Federal Insurance Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§ 60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The community, after examining the applicant's hardships, shall approve or disapprove a request. While the granting of variances generally is limited to a lot size less than one-half acre (as set forth in paragraph (a)(2) of this section), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under ? 59.24(b) of this subchapter. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. Procedures for the granting of variances by a community are as follows:

- (1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;
- (2) Variances may be issued by a community for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section;
- (3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
- (5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section; and
- (6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.



(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(b)(1) The requirement that each flood-prone, mudslide (i.e., mudflow)-prone, and flood-related erosion prone community must adopt and submit adequate flood plain management regulations as a condition of initial and continued flood insurance eligibility is statutory and cannot be waived, and such regulations shall be adopted by a community within the time periods specified in ?? 60.3, 60.4 or ? 60.5. However, certain exceptions from the standards contained in this subpart may be permitted where the Federal Insurance Administrator recognizes that, because of extraordinary circumstances, local conditions may render the application of certain standards the cause for severe hardship and gross inequity for a particular community. Consequently, a community proposing the adoption of flood plain management regulations which vary from the standards set forth in ?? 60.3, 60.4, or ? 60.5, shall explain in writing to the Federal Insurance Administrator the nature and extent of and the reasons for the exception request and shall include sufficient supporting economic, environmental, topographic, hydrologic, and other scientific and technical data, and data with respect to the impact on public safety and the environment.

(2) The Federal Insurance Administrator shall prepare a Special Environmental Clearance to determine whether the proposal for an exception under paragraph (b)(1) of this section will have significant impact on the human environment. The decision whether an Environmental Impact Statement or other environmental document will be prepared, will be made in accordance with the procedures set out in 44 CFR part 10. Ninety or more days may be required for an environmental quality clearance if the proposed exception will have significant impact on the human environment thereby requiring an EIS.

(c) A community may propose flood plain management measures which adopt standards for floodproofed residential basements below the base flood level in zones A1-30, AH, AO, and AE which are not subject to tidal flooding. Notwithstanding the requirements of paragraph (b) of this section the Federal Insurance Administrator may approve the proposal provided that:

(1) The community has demonstrated that areas of special flood hazard in which basements will be permitted are subject to shallow and low velocity flooding and that there is adequate flood warning time to ensure that all residents are notified of impending floods. For the purposes of this paragraph flood characteristics must include:

(i) Flood depths that are five feet or less for developable lots that are contiguous to land above the base flood level and three feet or less for other lots;

(ii) Flood velocities that are five feet per second or less; and

(iii) Flood warning times that are 12 hours or greater. Flood warning times of two hours or greater may be approved if the community demonstrates that it has a flood warning system and emergency plan in operation that is adequate to ensure safe evacuation of flood plain residents.

(2) The community has adopted flood plain management measures that require that new construction and substantial improvements of residential structures with basements in zones A1-30, AH, AO, and AE shall:

(i) Be designed and built so that any basement area, together with attendant utilities and sanitary

facilities below the floodproofed design level, is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that minimal damage will occur from floods that exceed that level. The floodproofed design level shall be an elevation one foot above the level of the base flood where the difference between the base flood and the 500-year flood is three feet or less and two feet above the level of the base flood where the difference is greater than three feet.

(ii) Have the top of the floor of any basement area no lower than five feet below the elevation of the base flood;

(iii) Have the area surrounding the structure on all sides filled to or above the elevation of the base flood. Fill must be compacted with slopes protected by vegetative cover;

(iv) Have a registered professional engineer or architect develop or review the building's structural design, specifications, and plans, including consideration of the depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this paragraph;

(v) Be inspected by the building inspector or other authorized representative of the community to verify that the structure is built according to its design and those provisions of this section which are verifiable.