County Subdivision Regulation Sourcebook

2010 Update

Texas Association of Counties
1210 San Antonio
Austin, Texas 78701

Honorable Vernon Cook, Association President

Association Staff Members Serving You and Your County’s Needs

Gene Terry, Executive Director
C. Rex Hall, Assistant Executive Director

Carey Boethel, Director of Governmental Relations
Jay Johnson, Director of Education
Robert L. Lemens, General Counsel
Nancy Lyter, Finance Director
Mike Strawn, Director of Field Services

James Jean, Director of Program Administration
Gayle Latham, Director of CIRA
Jim Lewis, Director of Communications
Stan Reid, Chief Information Officer

Prepared by Paul J. Sugg, Manager, Governmental Relations Department

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The Texas Association of Counties (“TAC”) does not recommend any particular subdivision regulations for counties generically. The materials included in this sourcebook are for use by a commissioners court, together with its county attorney and county engineer and, if available, an expert in land and water use planning, in devising subdivision regulations suitable to the needs of the county. The materials in this sourcebook are no substitute for the close efforts of such persons. Yet, having said as much, the counties most desirous of help with such regulations tend to be counties experiencing rapid residential development growth in unincorporated areas. Included are the subdivision regulations from three counties that we hope will provide useful guidance to a commissioners court seeking to update its own subdivision regulations. We expect that, together with the passages of text supplied by the sourcebook editor and the other relevant included materials, this sourcebook can strengthen counties’ efforts in this area. We further hope that such a sourcebook can stimulate statewide discussion and sharing of experiences among county officials and staff in this area, with a vision to the future of this state and the counties of which this state is constituted.

That said, we fully recognize that there is no a central planning solution to the variety of different situations faced by the state’s 254 counties. A commissioners court may believe that only extremely minimal regulation is warranted for its county, and a thoroughgoing set of regulations may be deemed inappropriate. On the other hand, some commissioners courts may feel that the law, even as currently amended, does not go far enough in helping them getting a handle on the challenges to county infrastructure posed by the rapid development that they are currently experiencing or believe they soon will. Such a commissioners court may seek to issue suitable subdivision requirements to the maximum extent allowed to it by law.

This sourcebook is an ongoing project, with updates after any new legislative changes, major state agency regulatory changes or relevant major judicial decisions. As the state continues to grow, subdivision regulations and the legislative directions about them will, in all likelihood, continue to be changed.
We hope that such statutory and regulatory changes will continue to clarify and focus the duties, responsibilities, and authority of county officials in addressing growth issues. We welcome comments and criticisms from you, the county officials and your staff serving your constituents, because the goal of this sourcebook is to assist you in your duties as county officials and community leaders.

Paul J. Sugg

P.S. My thanks to my co-editor in this first edition (1999) of this sourcebook, Jon Needle, for his contributions to this endeavor.
Historical Introduction
In August 1994, Elgin Bank of Texas, the plaintiff, and Travis County, the defendant, presented their requests for summary judgment to the 250th District Court in Travis County, the Honorable F. Scott McCown presiding. The suit resulted from conflicting definitions of “subdivision” as found in Chapter 232, Local Government Code. Elgin Bank owned 150 acres of land in Travis County and sought to subdivide it and sell it without filing a plat with the county. The bank’s attorneys argued the statute required a plat only if two conditions were met: the land was being divided into two or more parts and land was dedicated to public use, such as streets, roads, parks, or other public dedication of land. The plaintiff argued that because the development was in an unincorporated area of the county and did not include any dedication of land to public use, including streets, roads, parks, or other public dedication of land, the law did not require the filing of a plat.

Travis County countered, arguing the statute required that a plat be filed in almost all cases in which land is subdivided, in order to insure that new subdivisions would be constructed with adequate infrastructure. To deny the county’s authority would adversely affect the ability of Travis and other Texas counties to conduct effective land management and would result in disorderly and substandard subdivisions.

Judge McCown held in favor of Travis County and in his ruling made extensive use of the legislative history and intent of subdivision regulation in Texas. He noted that in a 1927 act concerning municipal land development, the 40th Legislature made it illegal to provide public utilities to “any lots” without filing a plat with the appropriate municipal authority. The bill’s caption set forth its purpose in detail, specifically stating that public utilities such as light, gas, water, sewer, and others, should not be made available to a municipal subdivision unless the appropriate authority had approved the plat.

The judge also stated that the county subdivision statute had been modeled directly after the municipal statute, and although the county statute had been tinkered with over time, none of this tinkering had been designed to change the intent of the legislation: to provide local officials with some minimal control over development.

In its request for summary judgment, Elgin Bank had cited a 1989 Texas Attorney General’s Opinion (JM-1100) that stated the platting requirement was not triggered unless the subdivision also included the laying out of streets or other public areas such as parks. However, in 1993 the 73rd Legislature passed HB 496, which made corrections to Chapter 212, Local Government Code, the municipal platting statute. The bill analysis stated that JM-1100 “ . . . had resulted in substandard development, often to the detriment of innocent purchasers of property.”
The 3rd Court of Appeals, however, reversed Judge McCown’s decision (Elgin Bank of Texas v. Travis County, 906 S.W. 2d 120 (Tex.App.-Austin, 1995) writ denied). The court agreed with Elgin Bank’s original argument and with JM-11b: Chapter 232.001, Local Government Code, required a plat only if land was to be divided into two or more parts and land was set aside for public use, such as streets, roads, or parks. Because Elgin Bank’s property had access to existing roads and since the bank did not plan to build any streets or roads or dedicate any land to public use within the subdivision, the bank did not have to file a plat with the county.

Before Elgin Bank numerous counties had required plats for all new subdivisions. The Elgin Bank decision left some new rural and suburban development outside the jurisdiction of minimum regulation by counties. A developer who did not wish to file a plat for whatever reason could often easily configure a subdivision so as not to include land dedicated to public use.

According to the Senate Research Center’s analysis of the 76th Legislature’s Senate Bill 710: “Since the Elgin Bank decision, subdivisions have been developed with lots that do not meet minimum requirements for installation of a permitted septic tank, though no sewer system is available. Lots have been sold that do not have adequate access to water, or proper drainage features and completed grading, and some lots flood with relatively normal rainfall.” Representative Bob Turner and Senator Jeff Wentworth filed, respectively, HB 423 and SB 710, companion bills that sought to remedy the Elgin Bank problem by amending Chapter 232, Local Government Code, to clarify counties’ authority to regulate the subdivision of tracts of land, with a number of exceptions. The legislature passed the Senate version of the bill and the governor signed it into law.

Efforts to provide solutions to county subdivision regulation problems are ongoing and generally incremental, with some noted exceptions. In 2001, the 77th Legislature passed two significant subdivision regulation bills, HB 1445 and SB 873. The first addressed the matter of dual review of plats in municipal extra-territorial jurisdictions (ETJ) and the latter expanded the authority of certain urban and surrounding counties. In 2003, the 78th Legislature passed House Bill 1204 to require binding arbitration for those cities and counties that have not yet established the interlocal agreements providing for consolidated plat review in certain ETJs. Other small gains were made by the 78th Legislature, adding Section 232.021 to the Local Government Code: this provided clear authority for a commissioners court to charge a plat application fee to cover the cost of the county’s review of a subdivision plat and the inspection of street, road, and drainage improvements. Such a fee may vary, depending on the complexity and scale of a proposed development. The 79th Legislature slightly adjusted the population bracket for those counties operating under Subchapter E, Chapter 232, Local Government Code (2001’s SB 873), by adding a provision for certain high growth counties on the cusp of becoming part of a larger metropolitan area. It further provided some alternate procedures for plat revisions.
In 2005, the 79th Legislature passed HB 467, amending provisions of the Water Code and the Local Government Code relating to the Texas Water Development Board’s (TWDB) Economically Distressed Area Program (EDAP), which offers financial assistance to procure adequate drinking water and sewage systems. The bill expanded the program by redefining “affected county” to include any county that had an economically distressed area with a median household income at or below 75 percent of the median state household income during the past year and extends the program to include economically distressed areas with subdivisions developed by June 1, 2005, rather than June 1, 1989. Economically distressed areas in all 254 counties could be eligible under this expanded program. In order for a qualifying community to be eligible for funding, the county in which the community is located must adopt TWDB’s Model Subdivision Rules (MSR).

The 80th Legislature (2007) struck the population bracket on Subchapter E of Chapter 232, Local Government Code, allowing any county to use the subchapter’s authority. The legislature took a significant step with this change, recognizing authority formerly reserved for urban and surrounding counties should be made available to all counties. Another change to county authority added Sec. 232.0033 (“Additional Requirements: Future Transportation Corridors”), requiring notice be given to prospective homebuyers if a subdivision for which a plat is required is located within future transportation corridors and prohibiting commissioners court from approving such a plat for recordation without this information being included on the plat. The session’s major water bill, SB 3, added Sec. 232.00320 to the Local Government Code, requiring developers of residential subdivisions reliant on groundwater to provide groundwater-related information to state agencies and local groundwater districts, if required to do so by a commissioners court. Additional minor changes were made for certain plat revisions and plat amendments.

The year 2009 saw additional changes to county authority as well when the 81st Legislature passed HB 2633. This created Subchapter F, Chapter 233, Local Government Code, to allow commissioners courts to require homebuilders to conduct inspections of new homes and significant additions to existing homes. Commissioners courts now may also choose to adopt and impose standards and specifications for the design and installation of address number signs identifying properties located in unincorporated areas of the county, thanks to HB 2655, which added Subsections (b-1) and (e) to Sec. 251.013, Transportation Code. The Legislature also passed HB 2275, creating a task force to research and identify the conflicts and deficiencies in current law regarding the regulation of subdivision development in the unincorporated areas of border counties (Subchapter B, Chapter 232, Local Government Code) and in economically distressed counties (Subchapter C, Chapter 232, Local Government Code).

The challenges of growth continue, as does the need of county officials to have tools adequate to meet these present and future challenges. It is our earnest hope that future legislatures will respond by providing the necessary tools to those most in need of them. County officials may then, in turn, better ensure that development takes place in an orderly and thoughtful fashion.

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and does so without placing an undue burden on a county’s resources, that is to say, the pocketbooks of the county taxpayers.
Access street any street within a subdivision or along the boundaries of a subdivision which would serve any properties outside the plat boundaries or provide a connection directly with a collector street.

Aerobic digestion the bacterial decomposition and stabilization of sewage in the presence of free oxygen.

Alley a joint use access which is used only for secondary access to individual properties which otherwise have primary access from an adjacent public street or approved common open space or courtyard which is adjacent to a common street.

Anaerobic digestion the bacterial decomposition and stabilization of sewage in the absence of free oxygen.

Arterial street a principal traffic artery, carrying higher volumes of traffic, more or less continuously, which is intended to connect remote parts of the area adjacent thereto and to act as a principal connecting street with State highways.

Authorized agent a local government entity authorized by the Texas Commission on Environmental Quality (TCEQ), its executive director, or Chapter 284, Texas Administrative Code (relating to Private Sewage Facilities) to implement and enforce Chapter 366, Texas Health and Safety Code.

Block a tract of land identified within a subdivision which is surrounded by streets and may be further subdivided.

Building line/setback line a line established, in general, parallel to the front street line. No building or structure may be permitted in the area between the building line and the street right-of-way.

Cluster system an on-site sewage collection, treatment, and disposal system designed to serve two or more sewage-generating units on separate legal tracts where the total combined flow does not exceed 5,000 gallons per day.

Collector street a street or road providing for travel between local streets and the arterial street network, or serving multi-family development or neighborhood centers or services such as schools, parks, or fire stations.

Colonia a geographic area that has a majority population composed of individuals and families of low income and very low income, as defined by Section 2306.004, Government Code, and based on the federal Office of Management and Budget poverty index, and that meets the qualifications of an economically distressed area under Section 17.921, Water Code; or, that has the physical and economic characteristics of a colonia, as defined by the Texas Department of Housing and Community Affairs.

Common area an area held, designed, or designated for the common use of the owners or occupants of a subdivision or mobile home park.

County road a roadway under the control and maintenance of the county.

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County road a roadway under the control and maintenance of the county.
Cul-de-sac  a short public street having only one opening or access to another public street and which is terminated by a permanent vehicular turnaround.

Daughter tract any of the tracts created by division of a parent tract, including the remainder of the parent tract itself.

Dedication the appropriation of land, or an easement therein, by the owner, for the use of the public, and accepted for such use by or on behalf of the public.

Development plan a boundary survey prepared by a Registered Professional Engineer or Registered Professional Land Surveyor showing all existing and proposed structures and all easement and rights of way within or abutting the boundary of the survey.

Drainage easement an area intended for restricted use on property upon which an authorized government agency shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or operation of any of its respective drainage systems within any of these easements. An authorized governmental agency shall at all times have the right of unobstructed ingress and egress to and from and upon the drainage easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective drainage systems without the necessity at any time of procuring the permission of anyone.

Driveway an area surfaced with asphalt, gravel, concrete, or similar surface, providing vehicular access between a public or private street and private property.

Easement a right given by the owner of a parcel of land to another person, public agency, or private corporation for the specific and limited use of that parcel. A privilege or right of use or enjoyment granted on, above, under, or across a particular tract of land by one owner to another.

Economically distressed area an area in which the water supply or wastewater systems are inadequate to meet minimal needs of residential users; the financial resources are inadequate to provide services to meet those needs; and, there was an established residential subdivision on or prior to June 1, 2005. An economically distressed area is one in which a median household income that is not greater than 75% of the median state household income.

EDAP (Economically Distressed Area Program) a program administered by the Texas Water Development Board to provide financial assistance (through grants and/or loans) to economically distressed areas in need of adequate water and wastewater services.

Engineer a person licensed under the provisions of the Texas Engineering Registration Act to practice the profession of engineering.

Evapotranspiration (ET) system subsurface sewage disposal facility which relies on soil capillarity and plant uptake to dispose of treated effluent through surface evaporation and plant transpiration.

Existing grade the grade at the time of the application of subdivision, site development permit, and development permit within Flood Hazard Areas.
Extraterritorial jurisdiction (ETJ) the unincorporated territory extending beyond the city limits of a city as set forth by Section 42.021, Local Government Code. The unincorporated area which is contiguous to the corporate boundaries of the municipality and which is located:

a. within one-half mile of those boundaries in the case of a municipality with fewer than 5,000 inhabitants;
b. within one mile of those boundaries in the case of a municipality with 5,000 to 24,999 inhabitants;
c. within two miles of those boundaries in the case of a municipality with 25,000 to 49,999 inhabitants;
d. Within three and one-half miles of those boundaries in the case of a municipality with 50,000 to 99,999; or
e. Within five miles of those boundaries in the case of a municipality with 100,000 or more inhabitants.

Filing fee a charge for filing documents with the County Clerk.

Final acceptance formal acceptance of a constructed project by the Commissioners Court.

Final plat a map or drawing of a proposed subdivision prepared in a manner suitable for recording ion the County records and prepared to conform with the conditions of preliminary approval previously granted by Commissioners Court or its designated representative.

Floodplain that area subject to inundation by flood, having a one percent probability of occurrence in any given year (100-year flood), based on existing conditions of development within the watershed area, as determined by the Flood Insurance Study (if available) provided by the Federal Emergency Management Agency (FEMA).

Floodway the channel of a watercourse and adjacent land areas (center portion of the 100-year floodplain) that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface more than one foot above the 100-year flood elevation prior to encroachment into the 100-year floodplain.

Geographic Information System a database of digital information and data on land use, land cover, ecology, and other geographic attributes that can be overlaid, statistically analyzed, mathematically manipulated, and geographically displayed using maps, charts, and graphs.

Grade the horizontal elevation of a finished surface of the ground, paving, or sidewalk at a point where height is to be measured; or the degree of inclination of a surface; the vertical location of the ground surface.

Grading excavation or fill or any combination thereof, including the establishment of a grade following demolition of a structure.

Groundwater subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated either year-round or on a seasonal or intermittent basis.

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Impervious cover/surface  a surface that cannot be penetrated by water, such as pavement, rock, or a rooftop and thereby prevents infiltration of rainwater and generates runoff.

Industrial street a road or street intended primarily to serve traffic with an area of industrial development or proposed industrial development.

Local street a public street not designated as a major thoroughfare, freeway, or highway and not situated within the existing and/or planned pattern of streets in a manner to cause it to function as a collector street; a street or road which is intended primarily to serve traffic within a neighborhood or limited residential district and which is not continuous through several residential districts. A local street should provide access to adjacent land over short distances.

Lot an undivided tract or parcel of land contained within a block or designated on a subdivision plat by number.

Manufactured home a structure falling within the definition of manufactured housing as found in Section 5221f, Texas Civil Statutes Annotated.

Manufactured home community a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, sold, or offered for rental, lease, or sale for the installation of manufactured homes for use and occupancy as residences.

Manufactured home subdivision a manufactured home community in which two or more of the spaces or lots are to be sold or offered for sale.

Manufactured home rental community a manufactured home community in which two or more spaces are rented, leased, or offered for rent or lease for a term of less than 60 months without a purchase option.

May permissive.

Neighborhood collector street a street or road collecting traffic from other streets and collectors and serving as the most direct route to an arterial, state highway, or a neighborhood center.

On-site sewage disposal system one or more systems of treatment devices and disposal facilities that produce no more than 5,000 gallons of waste each day and are used only for disposal of sewage produced on a site on which the system is located.

On-site disposal order an order adopted by a local government entity and approved by the executive director of the Texas Commission on Environmental Quality. Approval of this order by the executive director grants authorized agent status to the local governmental entity.

On-site sewage facility (OSSF) an on-site sewage disposal system.

Owner the owner of real property subject to a proposed or existing subdivision. Also: Subdivider, Applicant, Developer.

Parent tract the original tract owned by the developer prior to any subdivision.

Impervious cover/surface a surface that cannot be penetrated by water, such as pavement, rock, or a rooftop and thereby prevents infiltration of rainwater and generates runoff.

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Preliminary plat a map or drawing of a proposed subdivision illustrating the features of the development for review and preliminary approval by Commissioners Court or its designated representative, but not suitable for recording in the County records.

PGMA (Priority Groundwater Management Area) an area designated and delineated by Texas Commission on Environmental Quality as an area that is experiencing or is expected to experience critical groundwater problems.

Private street any street that is not dedicated or maintained as a public street; a vehicular access way under private ownership and maintenance.

Public street a public right-of-way, however designated, dedicated, or acquired which provides vehicular access to adjacent properties.

Residential collector street a street or road collecting traffic from local streets of a residential nature and leading to streets of a higher type of classification.

Resubdivision the redesign of an existing subdivision, together with any changes of lot size therein or the relocation of any street lines or lot lines.

Septic tank a watertight covered receptacle constructed to receive, store, and provide treatment to domestic sewage. Its function is to separate solids from the liquid, digest organic matter under anaerobic conditions, store the digested solids through a period of detention, and allow the clarified liquid to be disposed of by an approved manner in accordance with the provisions of Chapter 285, Texas Administrative Code.

Sewage disposal plan a technical report prepared by either a registered professional engineer or a registered sanitarian having demonstrated expertise in on-site sewage disposal planning. The plan must include, but is not limited to, the location of structures, easements, wells, treatment units, and disposal areas.

Shall mandatory and not discretionary.

Site evaluator an individual who holds a valid certificate with the Texas Commission on Environmental Quality and visits a site and conducts a pre-construction site evaluation which includes performing soil analysis, a site survey, and other criteria necessary to determine the suitability of a site for a specific OSSF.

Stub street a public street ending at a tract of undeveloped property and intended to be extended at such time as the adjacent undeveloped property is subdivided; a public street not terminated by a permanent circular turnaround, ending adjacent to undeveloped property or acreage and intended to be extended at such time as the adjacent undeveloped property or acreage is subdivided or developed.

Subdivider (developer) an owner or authorized agent proposing to divide land; any owner or authorized agent thereof proposing to divide or subdividing land so as to constitute a subdivision according to the terms and provisions of the subdivision rules.

Subdivision see Sections 232.001, 232.015, Local Government Code.
Substandard road a road which does not meet the county’s standards.

Takings Impact Assessment (TIA) a written evaluation a governmental entity undertakes pursuant to Chapter 2007.043, Government Code, which must include a number of statutorily required descriptions and determinations, and is required if the entity is to take an action (including rules and regulations) described in Chapter 2007.003, Government Code.

TCEQ Texas Commission on Environmental Quality

TWDB Texas Water Development Board

Unrecorded subdivision a subdivision of land or a description of land for resale resulting in the creation of lots or tracts, but for which a plan or a plat has not been authorized for recording by commissioners court.
County Subdivision Regulation Sourcebook

Chapter 232, Local Government Code

a. Overview of Subchapter A
b. Text of whole chapter
c. Plat Approval in the ETJ
d. Subchapter E: Tools for all Counties
e. HB 2833: Building Code Authority in the Unincorporated Area
The Subchapters within Chapter 232 of the Local Government Code

Subchapter A of Local Government Code Chapter 232 concerns subdivision platting requirements and regulation in general. Subchapter B concerns subdivision platting requirements in counties near the international border, known in the vernacular as “colonias” counties. Subchapter C concerns “EDAP” counties, that is, counties which qualify for the Economically Disadvantaged Areas Program, administered by the Texas Water Development Board. Subchapter D concerns the creation and functioning of county (development) planning commissions in counties which fall under just-mentioned Subchapters B and C. In this Sourcebook, counties which fall under Subchapters B and C are addressed in a particularized, separate section. Subchapter E concerns certain additional authority formerly reserved for certain urban and surrounding counties but now available to all counties to adopt if they choose; it merits its own separate section as well. A section by section description of Chapter 232 is provided in the Attorney General’s Guidebook, which is produced in another section of this Sourcebook.

Subchapter A: What’s All This about Plats?

Section 232.001(a), Local Government Code, provides that the owner of a tract of land outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out a subdivision, including an addition, lots, streets, alleys, squares, parks or other parts of the tract intended for public use or use by owners of lots within the subdivision. The approved plat filed with the county clerk is important for at least two main reasons: 1) The approved plat is a source of validated public information available for government or private use; and 2) The process of plat approval is a vehicle for subdivision regulation, since certain regulatory requirements a county may order (public right of way measurements, for instance), typically have to be reflected in the approved plat. Thus, Sections 232.001 and 232.003 work in tandem. Nothing in the subchapter ever expressly states so, but the implication of the subchapter as a whole appears to be that if a landowner does not have to file a plat under this chapter, then the county has no authority to regulate how the landowner divides his land. Nonetheless, if the county has other statutory powers or state agency delegated authority over certain critical matters such as on-site sewage facilities, the county may perhaps in some circumstances still exert some oblique influence over subdivision developments which are otherwise excluded from platting requirements under this chapter.

The plat approval (or denial) process is the initial means through which both statutory requirements for filing and county regulatory authority are brought to bear. The ultimate means is enforcement.

What Constitutes Dividing a Landowner’s Land?

Overview of Local Government Code Chapter 232, Subchapter A, and County Subdivision Regulation Authority

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What Constitutes Dividing a Landowner’s Land?
Under Section 232.001, a division of a tract includes any division regardless of whether it is made using a metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract of sale or other executor contract to convey, or by using any other method.

When Does a Commissioners Court Have to Approve a Plat?

The commissioners court must approve the plat if it meets the statutory requirements and the county’s regulatory requirements, if applicable. See Section 232.002. The plat must be filed and recorded with the county clerk. See Section 232.001(d).

Moreover, the county must 1) Notify a plat applicant within 10 business days if the plat application is deficient and identify the deficiencies and 2) take final action on a plat application within 60 days of submission of a complete plat application (although extensions are allowed under certain limited specific conditions). See Section 232.025.

Exceptions to Subdivision Platting Requirements: Section 232.0015

In 1999 the Legislature passed Senate in Senate Bill 710, which, among other things, added subsections (c) through (k) to this section – a major change. Since then, a subdivision plat is not required to be filed by the landowner if:

The owner of the land divides the tract into two or more parts and does not lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the alleys, squares, parks, or other parts and:

1) The land is used primarily for agricultural uses, or for farm, ranch, wildlife management, or timber production use (subsection (c)(1)); or

2) The tract is divided into four or fewer parts and the parts are sold, given, or otherwise transferred to an individual who is related to the owner within the third degree of consanguinity or affinity (subsection (c)(3)); or

3) All the lots of the subdivision are more than 10 acres in area (subsection (f)(1)), always recalling, however, that a development with lots greater than 10 acres that dedicates lands to uses described above at the outset of this section is nevertheless subject to platting requirements); or

4) All the lots are sold to veterans through the Veteran’s Land Board program (subsection (g)); or

5) The tract is owned by the state or other state agency, board, or commission or owned by the permanent school fund or any other dedicated funds of the state (subsection (h)); or

6) The owner of the land is a political subdivision of the state, and the land is situated in a floodplain, and the lost are sold to adjacent landowners (subsection (i)); or

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6) The owner of the land is a political subdivision of the state, and the land is situated in a floodplain, and the lost are sold to adjacent landowners (subsection (i)); or
7) One new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of these regulations (subsection j); or

8) All parts of the tract are transferred to persons who owned an undivided interest in the original tract, and a plat is filed before any further development of any part of the tract (subsection k).

Additionally, except as provided by Section 232.0013 (“County-wide Provision Relating to Regulation of Plats and Subdivisions in Extraterritorial Jurisdiction”), Subchapter A, with these listed exceptions, does not apply to a subdivision of land to which Subchapter B (“Subdivision Platting Requirements in County Near International Border”) applies (subsection b).

Problems in Interpreting Section 232.0015: Need Not, May Nots and Shall Not

At least some county officials have had a difficult time trying to understand and apply the exceptions section (232.0015) reviewed directly above. The hardest problems seem to stem from the use in the same section of “need not” (subsection a), seven instances of “may not” (subsections c,d,e,f,g,l,i and k) and one use of “shall not” (subsection b). Some confusion has arisen in determining the meaning of the second sentence of 232.0015(a): “A county need not require platting for every division of land otherwise within the scope of this subchapter,” especially in the wake of the 1999 additions to Section 232.0015. The sometimes elusive distinctions between “may” and “shall” have been the subject of appellate court opinions and attorney general opinions. The ability of these opinions to shed light diminishes somewhat, however, when the word “not” is added to both “may” and “shall”, and then a “need not” is thrown into the mix for good measure.

In fact, the “need not” and the whole above-quoted sentence of 232.0015(a) predated the 1999 statutory changes. It is not very clear what this sentence was intended to accomplish. On one extreme, it has been argued that the intent is that it is optional for the county to require or enforce platting for the subdivisions which fall under the explicit and direct statutory requirement to landowners in 2320.001. In support of this view is the bill analysis of 1999’s SB 710, which states that the revisions “grants counties the authority to require platting of all new subdivisions” unless exceptions apply. Yet the language of the statute itself seems not to leave the matter to counties, but rather to issue a direct command to landowners to file those plats required by 232.001 with the county clerk.

On the other extreme, the view has been expressed by one county attorney that the “need not” of the second sentence of 232.0015(a) is instructive concerning, and reflective of, the several “may no(s)” found in 232.0015. This view submits the legislative intent is that it is optional for the county to adopt the exceptions containing “may not” in statute as amended in 1999. For support of this latter view it was pointed out that there must have been intended a distinction between the several “may no(s)” and the one “shall not” in 232.0015, and thus only the one “shall not” (subsection h) could be viewed as a mandatory exception to requiring plats.

In response to this last-mentioned view, however, we note that subsection (h), unlike all the other exceptions, gives a command about the application of “[t]he provisions of this subchapter”, as opposed to

7) One new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of these regulations (subsection j); or

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an instruction to counties, which could better explain the otherwise puzzling use of “shall not” versus “may not”. In addition, the bill analysis of SB 710 states for each “may not” subsection, that the act "prohibits" the county from requiring a plat described in that subsection.

A 2000 attorney general’s opinion (IC-0260) sheds light on the matter. The question was posed to the attorney general: does section 232.0013(a) permit a county to exempt “specific divisions of land” from the subdivision plat requirement in section 232.001? The answer: “We [the attorney general] conclude that it does”. The opinion states that in addition to the listed exemptions from the platting requirements, subsection (a) “… must authorize a county to ‘define and classify divisions’ to exempt from the platting requirement particular subdivisions that, because they are not excepted under subsections (b) through (k), would otherwise be subject to the platting requirement.” We thank the attorney general for adding clarity to the matter and recommend to those interested to review the opinion for themselves.

Where is There Room for Discretion? Does the County Have the Power to do Anything but Process What the State is Commanding the Plat Filer to Do?

Please see immediately below. (We think the answer is yes.) If a landowner complies with the county’s regulations, however, the commissioners court apparently has no discretion to deny the applicant.

Regulatory Measures Within the Commissioners Court Discretion: Section 232.003

Streets

1) The county may require 50-100 foot right-of-way on a street or road that functions as a main artery in a subdivision [subsection (1)]

2) The county may require a 40-70 foot right-of-way on any other street or road in a subdivision. [subsection (2)]

3) The county may require a 32-56 foot shoulder-to-shoulder width on collectors or main arteries; 25-35 foot shoulder-to-shoulder width on any other street or road in a subdivision. [subsection (3)]

4) The county may adopt reasonable specifications relating to street and road construction based upon amount and kind of travel. [subsection (4)]

5) The county may require that the subdivision bond ensure proper construction of roads and streets. [subsection (7) and section 232.004]

Drainage

6) The county may impose specifications for drainage and stormwater runoff in subdivisions to manage flow and coordinate with the area’s general storm drainage pattern. [subsection (8)]

7) The county may adopt reasonable specifications to provide adequate drainage for each street and road in accordance with standard engineering practices. [subsection (5)]

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**Water availability**

9) The county may require that each purchase contract contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when. [subsection (6)]

10) The county may require, in accordance with section 232.0031, certification of groundwater availability as applicable. (Please see additional editor’s note provided in this sourcebook on water availability certification)

**Other**

11) The county may require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat. [subsection 9]

### 3.3 Million Population or Neighboring Counties

Counties with a population of 3.3 million or greater, or counties neighboring such a county, should consult section 232.006 for a slight variant of regulatory options regarding streets, regulation in extraterritorial jurisdictions, and other matters.

**Plat Application Fee: Section 232.0021**

This section allows a commissioners court to impose an application fee to cover the cost of a county’s review of a subdivision plat and the inspection of street, road, and drainage improvements described in the plat. The amount of the fee may vary, depending on the size and complexity of the plat, and must be paid before the county conducts a review of the plat.

**Regulatory Limits Re: Standards for Subdivision Roads; Section 232.0031; Reasonableness**

Section 232.0031 states “The county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than a county imposes on itself for the construction of streets or roads with a similar type and amount of traffic.” Questions which may arise in connection with this provision are: What constitutes a “higher” standard? Will a different standard necessarily mean a higher standard? Additionally, with regard to the permissive areas of regulation outlined above, several of the items state that counties can make “reasonable” regulations. The outlines of “reasonableness” will perhaps need to be determined on a case-by-case basis.

**Future Transportation Corridors: Section 232.0033**

In 2007, the Legislature added Section 232.0033 to Subchapter A, applicable to each county in the state. This authorizes the Texas Department of Transportation and a county to enter into an agreement that identifies future transportation corridors and requires notice be given to purchasers of land in a

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subdivision that may be affected by a future transportation corridor. Further, a commissioners court of a county may refuse to approve for recordation the plat for a subdivision wholly or partly located in a future transportation corridor unless the plat contains this information.

**Revising and Amending Plats: Sections 232.009, 232.0095, 232.010, and 232.011**

Sections 232.009 and 232.0095 provide methods for plat revision to real property located outside municipalities and the extraterritorial jurisdiction of municipalities with a population of 1.5 million or more. Under Section 232.009, the owner of such real property that has been subdivided and is subject to the may apply to commissioners court for permission to revise a plat. The county is required to publish notice of the plat revision request and (except if the plat revision only combines existing tracts) provide notice to any non-developer owners via certified or registered mail. Commissioners court may adopt an order permitting the revision if the revision will not interfere with the established rights of any owner of the subdivided land and if each owner whose rights may have been interfered with has agreed to the revision. As an alternative to Section 232.009, a county operating under this bracket may adopt Section 232.0095, which allows a county to use the municipal authority found in Sections 212.013, 212.014, 212.015, and 212.016 governing plat vacations, replatting, and plat amendment.

Section 232.010 allows a commissioners court of any county to allow conveyance of one or more previously platted lots by metes and bounds description without revising the plat. Section 232.011 allows a commissioners court to approve and issue an amending plat for a range of purposes set forth.

**Cancelling Plats: Sections 232.008, 232.0083, and 232.0085**

Section 232.008 sets forth the procedure to be followed for a person seeking the cancellation of all or part of a subdivision located outside municipalities and the extraterritorial jurisdiction of municipalities and to reestablish the property as acreage tracts as it existed before the subdivision. This section includes notice responsibilities to be fulfilled by the county, procedures for cancelling a dedicated easement or roadway by the developer, and procedures for a person seeking to maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision. Section 232.0083 sets forth procedures for a person wishing to cancel a plat that has been filed for 75 years or more and which meets other criteria, and to reestablish the property using lots and blocks descriptions that, to the extent practicable, are consistent with the previous subdivision plat. The section requires the county to publish notice of the application for cancellation and reestablishment. Section 232.0085 sets forth procedures for the cancellation of certain subdivisions in counties along an international border and also requires the county to publish notice of the application for cancellation and the tax assessor-collector to notify property owners in the subdivision of the application.

**The Question of Expiration: Section 232.002 ©**

In 2001, the 77th Legislature added subsection © to Section 232.002 to address the matter of plat expiration, providing that a subdivision plat expires fifty years after the plat was approved by a subdivision that may be affected by a future transportation corridor. Further, a commissioners court of a county may refuse to approve for recordation the plat for a subdivision wholly or partly located in a future transportation corridor unless the plat contains this information.

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**The Question of Expiration: Section 232.002 ©**

In 2001, the 77th Legislature added subsection © to Section 232.002 to address the matter of plat expiration, providing that a subdivision plat expires fifty years after the plat was approved by a
commissioners court if no portion of the plat was sold or transferred during that period. It also provides that a landowner wanting to sell or transfer lots on plats older than fifty years must resubmit their plats for approval under contemporary standards.

**Manufactured Home Rental Communities: Section 232.007**

Section 232.007 allows a county to adopt minimum infrastructure standards for manufactured home rental communities. Minimum standards may include requirements for:

1) Adequate drainage;
2) Adequate water supply;
3) Access to sanitary sewer lines or on-site sewage facilities;
4) Preparation of a survey;
5) Streets or roads (although standards may not be more stringent than those for subdivisions).

A utility may not provide services unless the owner provides a certificate of compliance issued by the commissioners court. Section 232.007 is discussed in greater detail in this sourcebook in an editor’s note in a separate, focused section on manufactured home rental communities.

**Conflicts of Interest: Section 232.0048**

Section 232.0048 defines the circumstances under which a member of a commissioners court must disclose a conflict and abstain from participation concerning a tract of land and subdivisions requirement for such a tract.

**Enforcement: Section 232.005**

On request of the commissioners court, a prosecuting attorney for the county may pursue injunctive relief, damages, or convictions for misdemeanor offenses established under the chapter.

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**Enforcement: Section 232.005**

On request of the commissioners court, a prosecuting attorney for the county may pursue injunctive relief, damages, or convictions for misdemeanor offenses established under the chapter.
§ 232.001. Plat Required

(a) The owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out:

(1) a subdivision of the tract, including an addition;

(2) lots; or

(3) streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

(a-1) A division of a tract under Subsection (a) includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

(b) To be recorded, the plat must:

(1) describe the subdivision by metes and bounds;

(2) locate the subdivision with respect to an original corner of the original survey of which it is a part; and

(3) state the dimensions of the subdivision and of each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.

(c) The owner or proprietor of the tract or the owner’s or proprietor’s agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

(d) The plat must be filed and recorded with the county clerk of the county in which the tract is located.

(e) The plat is subject to the filing and recording provisions of Section 12.002, Property Code.


§ 232.0013. Chapter-Wide Provision Relating to Regulation of Plats and Subdivisions in Extraterritorial Jurisdiction.

The authority of a county under this chapter relating to the regulation of plats or subdivisions in the extraterritorial jurisdiction of a municipality is subject to any applicable limitation prescribed by an agreement under Section 242.001 or by Section 242.002.


§ 232.0015. Exceptions to Plat Requirement

(a) To determine whether specific divisions of land are required to be platted, a county may define and classify the divisions. A county need not require platting for every division of land otherwise within the scope of this subchapter.

(b) Except as provided by Section 232.0013, this subchapter does not apply to a subdivision of land to which Subchapter B applies.

(c) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

1. the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

2. the land is to be used primarily for agricultural use, as defined by Section 1-1, Article VIII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1-1-1, Article VIII, Texas Constitution.

(d) If a tract described by Subsection (c) ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of this subchapter apply.

(e) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into four or fewer parts and does not lay out a part of the tract described by Section 232.001(a)(3) to have a plat of the subdivision prepared if each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this subchapter apply.

(f) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

1. all of the lots of the subdivision are more than 10 acres in area; and

2. the owner does not lay out a part of the tract described by Section 232.001(a)(3).

(g) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts and does not lay out a part of the tract described by Section
232.001(a)(3) to have a plat of the subdivision prepared if all the lots are sold to veterans through the Veterans' Land Board program.

(b) The provisions of this subchapter shall not apply to a subdivision of any tract of land belonging to the state or any state agency, board, or commission or owned by the permanent school fund or any other dedicated funds of the state unless the subdivision lays out a part of the tract described by Section 232.001(a)(3).

(i) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the owner of the land is a political subdivision of the state;

(2) the land is situated in a floodplain; and

(3) the lots are sold to adjoining landowners.

(j) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two parts to have a plat of the subdivision prepared if:

(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

(2) one new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of this chapter.

(k) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

(2) all parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.


§ 232.002. Approval by County Required

(a) The commissioners court of the county in which the land is located must approve, by an order entered in the minutes of the court, a plat required by Section 232.001. The commissioners court may refuse to approve a plat if it does not meet the requirements prescribed by or under this chapter or if any bond required under this chapter is not filed with the county.

(b) The commissioners court may not approve a plat unless the plat and other documents have been prepared as required by Section 232.0035, if applicable.

(c) If no portion of the land subdivided under a plat approved under this section is sold or transferred before January 1 of the 51st year after the year in which the plat was approved, the approval of the plat expires, 232.001(a)(3) to have a plat of the subdivision prepared if all the lots are sold to veterans through the Veterans' Land Board program.

(b) The provisions of this subchapter shall not apply to a subdivision of any tract of land belonging to the state or any state agency, board, or commission or owned by the permanent school fund or any other dedicated funds of the state unless the subdivision lays out a part of the tract described by Section 232.001(a)(3).

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(2) one new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of this chapter.

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(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

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(b) The commissioners court may not approve a plat unless the plat and other documents have been prepared as required by Section 232.0035, if applicable.

(c) If no portion of the land subdivided under a plat approved under this section is sold or transferred before January 1 of the 51st year after the year in which the plat was approved, the approval of the plat expires,
and the owner must resubmit a plat of the subdivision for approval. A plat resubmitted for approval under this subsection is subject to the requirements prescribed by this chapter at the time the plat is resubmitted.

**SUBCHAPTER B: SUBDIVISION PLATTING REQUIREMENTS IN COUNTY NEAR INTERNATIONAL BORDER**

§ 232.0021. Plat Application Fee

(a) The commissioners court may impose an application fee to cover the cost of the county’s review of a subdivision plat and inspection of street, road, and drainage improvements described by the plat.

(b) The fee may vary based on the number of proposed lots in the subdivision, the acreage described by the plat, the type or extent of proposed street and drainage improvements, or any other reasonable criteria as determined by the commissioners court.

(c) The owner of the tract to be subdivided must pay the fee at the time directed by the county before the county conducts a review of the plat.

(d) The fee is subject to refund under Section 232.0025(i).

HISTORY: Acts 2003, 78th Leg., ch. 301, effective September 1, 2003

§ 232.0025. Timely Approval of Plats

(a) The commissioners court of a county or a person designated by the commissioners court shall issue a written list of the documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized under this section or other applicable law. An application submitted to the commissioners court or the person designated by the commissioners court that contains the documents and other information on the list is considered complete.

(b) If a person submits a plat application to the commissioners court that does not include all of the documentation or other information required by Subsection (a), the commissioners court or the court’s designee shall, not later than the 10th business day after the date the commissioners court receives the application, notify the applicant of the missing documents or other information. The commissioners court shall allow an applicant to timely submit the missing documents or other information.

(c) An application is considered complete when all documentation or other information required by Subsection (a) is received. Acceptance by the commissioners court or the court’s designee of a completed plat application with the documentation or other information required by Subsection (a) shall not be construed as approval of the documentation or other information.

(d) Except as provided by Subsection (f), the commissioners court or the court’s designee shall take final action on a plat application, including the resolution of all appeals, not later than the 60th day after the date a completed plat application is received by the commissioners court or the court’s designee.

(e) If the commissioners court or the court’s designee disapproves a plat application, the applicant shall be given a complete list of the reasons for the disapproval.

and the owner must resubmit a plat of the subdivision for approval. A plat resubmitted for approval under this subsection is subject to the requirements prescribed by this chapter at the time the plat is resubmitted.

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(b) If a person submits a plat application to the commissioners court that does not include all of the documentation or other information required by Subsection (a), the commissioners court or the court’s designee shall, not later than the 10th business day after the date the commissioners court receives the application, notify the applicant of the missing documents or other information. The commissioners court shall allow an applicant to timely submit the missing documents or other information.

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(d) Except as provided by Subsection (f), the commissioners court or the court’s designee shall take final action on a plat application, including the resolution of all appeals, not later than the 60th day after the date a completed plat application is received by the commissioners court or the court’s designee.

(e) If the commissioners court or the court’s designee disapproves a plat application, the applicant shall be given a complete list of the reasons for the disapproval.
§ 232.003. Subdivision Requirements

By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(f) The 60-day period under Subsection (d):

(1) may be extended for a reasonable period, if agreed to in writing by the applicant and approved by the commissioners court or the court's designee;

(2) may be extended 60 additional days if Chapter 2007, Government Code, requires the county to perform a takings impact assessment in connection with a plat application; and

(3) applies only to a decision wholly within the control of the commissioners court or the court's designee.

(g) The commissioners court or the court's designee shall make the determination under Subsection (f)(2) of whether the 60-day period will be extended not later than the 20th day after the date a completed plat application is received by the commissioners court or the court's designee.

(b) The commissioners court or the court's designee may not compel an applicant to waive the time limits contained in this section.

(i) If the commissioners court or the court's designee fails to take final action on the plat as required by Subsection (d):

(1) the commissioners court shall refund the greater of the unexpended portion of any plat application fee or deposit or 50 percent of a plat application fee or deposit that has been paid;

(2) the plat application is granted by operation of law; and

(3) the applicant may apply to a district court in the county where the tract of land is located for a writ of mandamus to compel the commissioners court to issue documents recognizing the plat's approval.


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(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(f) The 60-day period under Subsection (d):

(1) may be extended for a reasonable period, if agreed to in writing by the applicant and approved by the commissioners court or the court's designee;

(2) may be extended 60 additional days if Chapter 2007, Government Code, requires the county to perform a takings impact assessment in connection with a plat application; and

(3) applies only to a decision wholly within the control of the commissioners court or the court's designee.

(g) The commissioners court or the court's designee shall make the determination under Subsection (f)(2) of whether the 60-day period will be extended not later than the 20th day after the date a completed plat application is received by the commissioners court or the court's designee.

(b) The commissioners court or the court's designee may not compel an applicant to waive the time limits contained in this section.

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(1) the commissioners court shall refund the greater of the unexpended portion of any plat application fee or deposit or 50 percent of a plat application fee or deposit that has been paid;

(2) the plat application is granted by operation of law; and

(3) the applicant may apply to a district court in the county where the tract of land is located for a writ of mandamus to compel the commissioners court to issue documents recognizing the plat's approval.

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when;

(7) require that the owner of the tract to be subdivided execute a good and sufficient bond in the manner provided by Section 232.004;

(8) adopt reasonable specifications that provide for drainage in the subdivision to:

(A) efficiently manage the flow of stormwater runoff in the subdivision; and

(B) coordinate subdivision drainage with the general storm drainage pattern for the area; and

(9) require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.


§ 232.0031. Standard for Roads in Subdivision

A county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of streets or roads with a similar type and amount of traffic.


§ 232.0032. Additional Requirements: Use of Groundwater

(a) If a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, the commissioners court of a county by order may require the plat application to have attached to it a statement that:

(1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and

(2) certifies that adequate groundwater is available for the subdivision.

(b) The Texas Commission on Environmental Quality by rule shall establish the appropriate form and content of a certificate to be attached to a plat application under this section.

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when;

(7) require that the owner of the tract to be subdivided execute a good and sufficient bond in the manner provided by Section 232.004;

(8) adopt reasonable specifications that provide for drainage in the subdivision to:

(A) efficiently manage the flow of stormwater runoff in the subdivision; and

(B) coordinate subdivision drainage with the general storm drainage pattern for the area; and

(9) require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.


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A county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of streets or roads with a similar type and amount of traffic.


§ 232.0032. Additional Requirements: Use of Groundwater

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(1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and

(2) certifies that adequate groundwater is available for the subdivision.

(b) The Texas Commission on Environmental Quality by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.
(c) The Texas Commission on Environmental Quality, in consultation with the Texas Water Development Board, by rule shall require a person who submits a plat under Subsection (a) to transmit to the Texas Water Development Board and any groundwater conservation district that includes in the district’s boundaries any part of the subdivision information that would be useful in:

(1) performing groundwater conservation district activities;

(2) conducting regional water planning;

(3) maintaining the state’s groundwater database; or

(4) conducting studies for the state related to groundwater.


§ 232.0033. Additional Requirements: Future Transportation Corridors

(a) This section applies to each county in the state. The requirements provided by this section are in addition to the other requirements of this chapter.

(b) If all or part of a subdivision for which a plat is required under this chapter is located within a future transportation corridor identified in an agreement under Section 201.619, Transportation Code:

(1) the commissioners court of a county in which the land is located:

(A) may refuse to approve the plat for recor dation unless the plat states that the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

(B) may refuse to approve the plat for recor dation if all or part of the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor;

(2) each purchase contract or lease between the subdivider and a purchaser or lessee of land in the subdivision must contain a conspicuous statement that the land is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.


(c) The Texas Commission on Environmental Quality, in consultation with the Texas Water Development Board, by rule shall require a person who submits a plat under Subsection (a) to transmit to the Texas Water Development Board and any groundwater conservation district that includes in the district’s boundaries any part of the subdivision information that would be useful in:

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(b) If all or part of a subdivision for which a plat is required under this chapter is located within a future transportation corridor identified in an agreement under Section 201.619, Transportation Code:

(1) the commissioners court of a county in which the land is located:

(A) may refuse to approve the plat for recor dation unless the plat states that the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

(B) may refuse to approve the plat for recor dation if all or part of the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor;

(2) each purchase contract or lease between the subdivider and a purchaser or lessee of land in the subdivision must contain a conspicuous statement that the land is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.


§ 232.004. Bond Requirements

If the commissioners court requires the owner of the tract to execute a bond, the owner must do so before subdividing the tract unless an alternative financial guarantee is provided under Section 232.0045. The bond must:

1. be payable to the county judge of the county in which the subdivision will be located or to the judge’s successors in office;
2. be in an amount determined by the commissioners court to be adequate to ensure proper construction of the roads and streets in and drainage requirements for the subdivision, but not to exceed the estimated cost of construction of the roads, streets, and drainage requirements;
3. be executed with sureties as may be approved by the court;
4. be executed by a company authorized to do business as a surety in this state if the court requires a surety bond executed by a corporate surety; and
5. be conditioned that the roads and streets and the drainage requirements for the subdivision will be constructed:
   (A) in accordance with the specifications adopted by the court; and
   (B) within a reasonable time set by the court.


§ 232.0045. Financial Guarantee in Lieu of Bond

(a) In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee.

(b) If a letter of credit is used, it must:

1. list as the sole beneficiary the county judge of the county in which the subdivision is located; and
2. be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets in the subdivision:
   (A) in accordance with the specifications adopted by the commissioners court; and
   (B) within a reasonable time set by the court.


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1. be payable to the county judge of the county in which the subdivision will be located or to the judge’s successors in office;
2. be in an amount determined by the commissioners court to be adequate to ensure proper construction of the roads and streets in and drainage requirements for the subdivision, but not to exceed the estimated cost of construction of the roads, streets, and drainage requirements;
3. be executed with sureties as may be approved by the court;
4. be executed by a company authorized to do business as a surety in this state if the court requires a surety bond executed by a corporate surety; and
5. be conditioned that the roads and streets and the drainage requirements for the subdivision will be constructed:
   (A) in accordance with the specifications adopted by the court; and
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1. list as the sole beneficiary the county judge of the county in which the subdivision is located; and
2. be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets in the subdivision:
   (A) in accordance with the specifications adopted by the commissioners court; and
   (B) within a reasonable time set by the court.

§ 232.0048. Conflict of Interest; Penalty

(a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has a substantial interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract with a fair market value of $2,500 or more;

(2) acts as a developer of the tract;

(3) owns 10 percent or more of the voting stock or shares of or owns either 10 percent or more or $5,000 or more of the fair market value of a business entity that:

(A) has an equitable or legal ownership interest in the tract with a fair market value of $2,500 or more; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year funds from a business entity described by Subdivision (3) that exceed 10 percent of the person’s gross income for the previous year.

(c) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another person who, under Subsection (b), has a substantial interest in the tract.

(d) If a member of the commissioners court of a county has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court without the vote of the member who violated this section.


§ 232.005. Enforcement in General; Penalty

(a) At the request of the commissioners court, the county attorney or other prosecuting attorney for the county may file an action in a court of competent jurisdiction to:
(1) enjoin the violation or threatened violation of a requirement established by, or adopted by the commissioners court under a preceding section of this chapter; or

(2) recover damages in an amount adequate for the county to undertake any construction or other activity necessary to bring about compliance with a requirement established by, or adopted by the commissioners court under a preceding section of this chapter.

(b) A person commits an offense if the person knowingly or intentionally violates a requirement established by, or adopted by the commissioners court under a preceding section of this chapter. An offense under this subsection is a Class B misdemeanor. This subsection does not apply to a violation for which a criminal penalty is prescribed by Section 232.0048.

(c) A requirement that was established by or adopted under Chapter 436, Acts of the 55th Legislature, Regular Session, 1957 (Article 662a, Vernon's Texas Civil Statutes), or Chapter 151, Acts of the 52nd Legislature, Regular Session, 1951 (Article 2372k, Vernon's Texas Civil Statutes), before September 1, 1963, and that, after that date, continues to apply to a subdivision of land is enforceable under Subsection (a). A knowing or intentional violation of the requirement is an offense under Subsection (b).


§ 232.006. Exceptions for Populous Counties or Contiguous Counties

(a) This section applies to a county:

(1) that has a population of more than 3.3 million or is contiguous with a county that has a population of more than 3.3 million; and

(2) in which the commissioners court by order elects to operate under this section.

(b) If a county elects to operate under this section, Section 232.005 does not apply to the county. The sections of this chapter preceding Section 232.005 do apply to the county in the same manner that they apply to other counties except that:

(1) they apply only to tracts of land located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42;

(2) the commissioners court of the county, instead of having the powers granted by Sections 232.003(2) and (3), may:

(A) require a right-of-way on a street or road that does not function as a main artery in the subdivision of not less than 40 feet or more than 50 feet; and

(B) require that the street cut on a main artery within the right-of-way be not less than 30 feet or more than 45 feet, and that the street cut on any other street or road within the right-of-way be not less than 25 feet or more than 35 feet; and

(1) enjoin the violation or threatened violation of a requirement established by, or adopted by the commissioners court under a preceding section of this chapter; or

(2) recover damages in an amount adequate for the county to undertake any construction or other activity necessary to bring about compliance with a requirement established by, or adopted by the commissioners court under a preceding section of this chapter.

(b) A person commits an offense if the person knowingly or intentionally violates a requirement established by, or adopted by the commissioners court under a preceding section of this chapter. An offense under this subsection is a Class B misdemeanor. This subsection does not apply to a violation for which a criminal penalty is prescribed by Section 232.0048.

(c) A requirement that was established by or adopted under Chapter 436, Acts of the 55th Legislature, Regular Session, 1957 (Article 662a, Vernon's Texas Civil Statutes), or Chapter 151, Acts of the 52nd Legislature, Regular Session, 1951 (Article 2372k, Vernon's Texas Civil Statutes), before September 1, 1963, and that, after that date, continues to apply to a subdivision of land is enforceable under Subsection (a). A knowing or intentional violation of the requirement is an offense under Subsection (b).

§ 232.007. Manufactured Home Rental Communities

(a) In this section:

(1) "Manufactured home rental community" means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

(2) "Business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

(b) A manufactured home rental community is not a subdivision, and Sections 232.001-232.006 do not apply to the community.

(c) After a public hearing and after notice is published in a newspaper of general circulation in the county, the commissioners court of a county, by order adopted and entered in the minutes of the commissioners court, may establish minimum infrastructure standards for manufactured home rental communities located in the county outside the limits of a municipality. The minimum standards may include only:

(1) reasonable specifications to provide adequate drainage in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100-year floodplain;

(2) reasonable specifications for providing an adequate public or community water supply, including specifying the location of supply lines, in accordance with Subchapter C, Chapter 341, Health and Safety Code;

(3) reasonable requirements for providing access to sanitary sewer lines, including specifying the location of sanitary sewer lines, or providing adequate on-site sewage facilities in accordance with Chapter 366, Health and Safety Code;

(4) a requirement for the preparation of a survey identifying the proposed manufactured home rental community boundaries and any significant features of the community, including the proposed location of manufactured home rental community spaces, utility easements, and dedications of rights-of-way; and

(5) reasonable specifications for streets or roads in the manufactured rental home community to provide ingress and egress access for fire and emergency vehicles.

(d) The commissioners court may not adopt minimum infrastructure standards that are more stringent than requirements adopted by the commissioners court for subdivisions. The commissioners court may only adopt minimum infrastructure standards for ingress and egress access by fire and emergency vehicles that are reasonably necessary.

(3) Section 232.004(5)(B) does not apply to the county.
(e) If the commissioners court adopts minimum infrastructure standards for manufactured home rental communities, the owner of land located outside the limits of a municipality who intends to use the land for a manufactured home rental community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards adopted by the commissioners court under Subsection (c).

(f) Not later than the 60th day after the date the owner of a proposed manufactured home rental community submits an infrastructure development plan for approval, the county engineer or another person designated by the commissioners court shall approve or reject the plan in writing. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within the period prescribed by this subsection constitutes approval of the plan.

(g) Construction of a proposed manufactured home rental community may not begin before the date the county engineer or another person designated by the commissioners court approves the infrastructure development plan. The commissioners court may require inspection of the infrastructure during or on completion of its construction. If a final inspection is required, the final inspection must be completed not later than the second business day after the date the commissioners court or the person designated by the commissioners court receives a written confirmation from the owner that the construction of the infrastructure is complete. If the inspection determines that the infrastructure complies with the infrastructure development plan, the commissioners court shall issue a certificate of compliance not later than the fifth business day after the date the final inspection is completed. If a final inspection is not required, the commissioners court shall issue a certificate of compliance not later than the fifth business day after the date the commissioners court or the person designated by the commissioners court receives written confirmation from the owner that construction of the infrastructure has been completed in compliance with the infrastructure development plan.

(h) A utility may not provide utility services, including water, sewer, gas, and electric services, to a manufactured home rental community subject to an infrastructure development plan or to a manufactured home in the community unless the owner provides the utility with a copy of the certificate of compliance issued under Subsection (g). This subsection applies only to:

(1) a municipality that provides utility services;

(2) a municipally owned or municipally operated utility that provides utility services;

(3) a public utility that provides utility services;

(4) a nonprofit water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides utility services;

(5) a county that provides utility services; and

(6) a special district or authority created by state law that provides utility services.

§ 232.008. Cancellation of Subdivision

(a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42.

(b) A person owning real property in this state that has been subdivided into lots and blocks or into small subdivisions may apply to the commissioners court of the county in which the property is located for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the commissioners court by order shall authorize the owner of the subdivision to file an instrument canceling the subdivision in whole or in part. The instrument must describe the subdivision or the part of it that is canceled. The court shall enter the order in its minutes. After the cancellation instrument is filed and recorded in the deed records of the county, the county tax assessor-collector shall assess the property as if it had never been subdivided.

(c) The commissioners court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the county for at least three weeks before the date on which action is taken on the application. The court shall take action on an application at regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.

(d) If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this section, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided. For the purpose of assessing the tract for a preceding year, the county tax assessor-collector shall back assess the tract on an acreage basis.

(e) On application for cancellation of a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of 75 percent of the property included in the subdivision, phase, or identifiable part, the commissioners court by order shall authorize the cancellation in the manner and after notice and a hearing as provided by Subsections (b) and (c). However, if the owners of at least 10 percent of the property affected by the proposed cancellation file written objections to the cancellation with the court, the grant of an order of cancellation is at the discretion of the court.

(f) To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:

1. abuts directly on the part of the roadway or easement to be canceled or closed; or
2. is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to:
3. (A) the nearest remaining public highway, county road, or access road to the public highway or county road; or
4. (B) any uncanceled common amenity of the subdivision.

§ 232.008. Cancellation of Subdivision

(a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42.

(b) A person owning real property in this state that has been subdivided into lots and blocks or into small subdivisions may apply to the commissioners court of the county in which the property is located for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the commissioners court by order shall authorize the owner of the subdivision to file an instrument canceling the subdivision in whole or in part. The instrument must describe the subdivision or the part of it that is canceled. The court shall enter the order in its minutes. After the cancellation instrument is filed and recorded in the deed records of the county, the county tax assessor-collector shall assess the property as if it had never been subdivided.

(c) The commissioners court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the county for at least three weeks before the date on which action is taken on the application. The court shall take action on an application at regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.

(d) If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this section, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided. For the purpose of assessing the tract for a preceding year, the county tax assessor-collector shall back assess the tract on an acreage basis.

(e) On application for cancellation of a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of 75 percent of the property included in the subdivision, phase, or identifiable part, the commissioners court by order shall authorize the cancellation in the manner and after notice and a hearing as provided by Subsections (b) and (c). However, if the owners of at least 10 percent of the property affected by the proposed cancellation file written objections to the cancellation with the court, the grant of an order of cancellation is at the discretion of the court.

(f) To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:

1. abuts directly on the part of the roadway or easement to be canceled or closed; or
2. is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to:
3. (A) the nearest remaining public highway, county road, or access road to the public highway or county road; or
4. (B) any uncanceled common amenity of the subdivision.
(g) A person who appears before the commissioners court to protest the cancellation of all or part of a subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the canceled subdivision or part of the subdivision. The person must bring the action within one year after the date of the entry of the commissioners court's order granting the cancellation.

(b) The commissioners court may deny a cancellation under this section if the commissioners court determines the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development.


§ 232.0083. Cancellation of Certain Subdivision Plats if Existing Plat Obsolete

(a) This section applies only to a subdivision for which:

(1) a plat has been filed for 75 years or more;

(2) the most recent plat describes at least a portion of the property as acreage tracts;

(3) a previous plat described at least a portion of the property as lots and blocks; and

(4) the county tax assessor-collector lists the property in the subdivision on the tax rolls based on the description in the previous plat and assesses taxes on the basis of that description.

(b) A person owning real property in the subdivision may apply to the commissioners court of the county in which the property is located for permission to cancel an existing subdivision plat in whole or part and to reestablish the property using lots and blocks descriptions that, to the extent practicable, are consistent with the previous subdivision plat.

(c) After notice and hearing, the commissioners court may order the cancellation of the existing subdivision plat and the reestablishment of the property in accordance with the application submitted under Subsection (b) if the court finds that:

(1) the cancellation and reestablishment does not interfere with the established rights of:

(A) any owner of a part of the subdivision; or

(B) a utility company with a right to use a public easement in the subdivision; or

(2) each owner or utility whose rights may be interfered with has agreed to the cancellation and reestablishment.

(d) The commissioners court shall publish notice of an application for the cancellation and reestablishment. The notice must be published at least three weeks before the date on which action is taken on the application and must direct any person who is interested in the property and who wishes to protest the proposed cancel-
(e) If the commissioners court authorizes the cancellation and reestablishment, the court by order shall authorize the person making the application under this section to record an instrument showing the cancellation and reestablishment. The court shall enter the order in its minutes.


§ 232.0085. Cancellation of Certain Subdivisions if Land Remains Undeveloped

(a) This section applies only to real property located:

(1) outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42; and

(2) in an affected county, as defined by Section 16.341, Water Code, that has adopted the model rules developed under Section 16.343, Water Code, and is located along an international border.

(b) The commissioners court of a county may cancel, after notice and a hearing as required by this section, a subdivision for which the plat was filed and approved before September 1, 1989, if:

(1) the development of or the making of improvements in the subdivision was not begun before the effective date of this section; and

(2) the commissioners court by resolution has made a finding that the land in question is likely to be developed as a colony.

(c) The commissioners court must publish notice of a proposal to cancel a subdivision under this section and the time and place of the required hearing in a newspaper of general circulation in the county for at least 21 days immediately before the date a cancellation order is adopted under this section. The county tax assessor-collector shall, not later than the 14th day before the date of the hearing, deposit with the United States Postal Service a similar notice addressed to each owner of land in the subdivision, as determined by the most recent county tax roll.

(d) At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the court shall adopt an order on whether to cancel the subdivision. The commissioners court may adopt an order canceling a subdivision if the court determines the cancellation is in the best interest of the public. The court may not adopt an order canceling a subdivision if:

(1) the cancellation interferes with the established rights of a person who is a nondeveloper owner and owns any part of the subdivision, unless the person agrees to the cancellation; or

(2) the owner of the entire subdivision is able to show that:

(A) the owner of the subdivision is able to comply with the minimum state standards and model political subdivision rules developed under Section 16.343, Water Code, including any bonding requirements; or

(b) the commissioners court of a county may cancel, after notice and a hearing as required by this section, a subdivision for which the plat was filed and approved before September 1, 1989, if:

(1) the development of or the making of improvements in the subdivision was not begun before the effective date of this section; and

(2) the commissioners court by resolution has made a finding that the land in question is likely to be developed as a colony.

(c) The commissioners court must publish notice of a proposal to cancel a subdivision under this section and the time and place of the required hearing in a newspaper of general circulation in the county for at least 21 days immediately before the date a cancellation order is adopted under this section. The county tax assessor-collector shall, not later than the 14th day before the date of the hearing, deposit with the United States Postal Service a similar notice addressed to each owner of land in the subdivision, as determined by the most recent county tax roll.

(d) At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the court shall adopt an order on whether to cancel the subdivision. The commissioners court may adopt an order canceling a subdivision if the court determines the cancellation is in the best interest of the public. The court may not adopt an order canceling a subdivision if:

(1) the cancellation interferes with the established rights of a person who is a nondeveloper owner and owns any part of the subdivision, unless the person agrees to the cancellation; or

(2) the owner of the entire subdivision is able to show that:

(A) the owner of the subdivision is able to comply with the minimum state standards and model political subdivision rules developed under Section 16.343, Water Code, including any bonding requirements; or


§ 232.0085. Cancellation of Certain Subdivisions if Land Remains Undeveloped
(B) the land was developed or improved within the period described by Subsection (b).

(e) The commissioners court shall file the cancellation order for recording in the deed records of the county. After the cancellation order is filed and recorded, the property shall be treated as if it had never been subdivided, and the county chief appraiser shall assess the property accordingly. Any liens against the property shall remain against the property as it was previously subdivided.

(f) In this section:

(1) "Development" means the making, installing, or constructing of buildings and improvements.

(2) "Improvements" means water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and other utility facilities. The term does not include roadway facilities.


§ 232.009. Revision of Plat

(a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities with a population of 1.5 million or more, as determined under Chapter 42.

(b) A person who owns real property in a tract that has been subdivided and that is subject to the subdivision controls of the county in which the property is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat that applies to the property and that is filed for record with the county clerk.

(c) After the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. Except as provided by Subsection (f), if all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(d) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has agreed to the revision.

(e) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

(B) the land was developed or improved within the period described by Subsection (b).

(e) The commissioners court shall file the cancellation order for recording in the deed records of the county. After the cancellation order is filed and recorded, the property shall be treated as if it had never been subdivided, and the county chief appraiser shall assess the property accordingly. Any liens against the property shall remain against the property as it was previously subdivided.

(f) In this section:

(1) "Development" means the making, installing, or constructing of buildings and improvements.

(2) "Improvements" means water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and other utility facilities. The term does not include roadway facilities.

(f) The commissioners court is not required to give notice by mail under Subsection (c) if the plat revision only combines existing tracts.

**HISTORY:** Acts 1999, 76th Leg., ch. 129, effective September 1, 1999; Acts 2003, 78th Leg., ch. 523, effective June 20, 2003.

§ 232.0095. Alternative Procedures for Plat Revision

(a) This section applies only to real property located outside municipalities and outside the extraterritorial jurisdiction, as determined under Chapter 42, of municipalities with a population of 1.5 million or more.

(b) As an alternative to the provisions in Section 232.009 governing the revision of plats, a county by order may adopt the provisions in Sections 212.013, 212.014, 212.015, and 212.016 governing plat vacations, replatting, and plat amendment. A county that adopts the provisions in those sections may approve a plat vacation, a replat, and an amending plat in the same manner and under the same conditions, including the notice and hearing requirements, as a municipal authority responsible for approving plats under those sections.

(c) Instead of the purpose described by Section 212.016(a)(10), an amended plat may be approved and issued by the county to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat:

(1) the changes do not affect applicable county regulations, including zoning regulations if the county has authority to adopt zoning regulations; and

(2) the changes do not attempt to amend or remove any covenants or restrictions.

**HISTORY:** Acts 2003, 78th Leg., ch. 523, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 762 (H.B. 3410), § 1, effective June 15, 2007.

§ 232.010. Exception to Plat Requirement: County Determination

A commissioners court of the county may allow conveyance of portions of one or more previously platted lots by metes and bounds description without revising the plat.

**HISTORY:** Added by Acts 1989, 71st Leg., ch. 345, § 7, eff. Aug. 28, 1989.

§ 232.011. Amending Plat

(a) The commissioners court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;

(4) the changes do not affect applicable county regulations, including zoning regulations if the county has authority to adopt zoning regulations; and

(5) the changes do not attempt to amend or remove any covenants or restrictions.

**HISTORY:** Acts 1999, 76th Leg., ch. 129, effective September 1, 1999; Acts 2003, 78th Leg., ch. 523, effective June 20, 2003.

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(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;
(4) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(5) to correct any other type of scrivener or clerical error or omission of the previously approved plat, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or

(6) to correct an error in courses and distances of lot lines between two adjacent lots if:

(A) both lot owners join in the application for amending the plat;

(B) neither lot is abolished;

(C) the amendment does not attempt to remove recorded covenants or restrictions; and

(D) the amendment does not have a material adverse effect on the property rights of the other owners of the property that is the subject of the plat.

(b) The amending plat controls over the preceding plat without the vacation, revision, or cancellation of the preceding plat.

(c) Notice, a hearing, and the approval of other lot owners are not required for the filing, recording, or approval of an amending plat.


SUBCHAPTER B. SUBDIVISION PLATING REQUIREMENTS IN COUNTY NEAR INTERNATIONAL BORDER

§ 232.021. Definitions

In this subchapter:

(1) "Board" means the Texas Water Development Board.

(2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

(3) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(4) "Floodplain" means any area in the 100-year floodplain that is susceptible to being inundated by water from any source or that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).
(5) "Lease" includes an offer to lease.
(6) "Lot" means a parcel into which land that is intended for residential use is divided.

(6-a) "Lot of record" means:

(A) a lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or

(B) a lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989.

(7) "Minimum state standards" means the minimum standards set out for:

(A) adequate drinking water by or under Section 16.343(b)(1), Water Code;

(B) adequate sewer facilities by or under Section 16.343(c)(1), Water Code; or

(C) the treatment, disposal, and management of solid waste by or under Chapters 361 and 364, Health and Safety Code.

(8) "Plat" means a map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments.

(9) "Sell" includes an offer to sell.

(10) "Sewer," "sewer services," or "sewer facilities" means treatment works as defined by Section 17.001, Water Code, or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.

(11) "Subdivide" means to divide the surface area of land into lots intended primarily for residential use.

(12) "Subdivider" means an individual, firm, corporation, or other legal entity that directly or indirectly subdivides land into lots for sale or lease as part of a common promotional plan in the ordinary course of business.

(13) "Subdivision" means an area of land that has been subdivided into lots for sale or lease.

(14) "Utility" means a person, including a legal entity or political subdivision, that provides the services of:

(A) an electric utility, as defined by Section 31.002, Utilities Code;

(B) a gas utility, as defined by Section 101.003, Utilities Code; and

(C) a water and sewer utility, as defined by Section 13.002, Water Code.
§ 232.022. Applicability

(a) This subchapter applies only to:

(1) a county any part of which is located within 50 miles of an international border; or

(2) a county:

(A) any part of which is located within 100 miles of an international border;

(B) that contains the majority of the area of a municipality with a population of more than 250,000; and

(C) to which Subdivision (1) does not apply.

(b) This subchapter applies only to land that is subdivided into two or more lots that are intended primarily for residential use in the jurisdiction of the county. A lot is presumed to be intended for residential use if the lot is five acres or less. This subchapter does not apply if the subdivision is incident to the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity, as determined under Chapter 573, Government Code.

(c) Except as provided by Subsection (c-1), for purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of municipalities.

(c-1) Land in a municipality’s extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality’s extraterritorial jurisdiction.

(d) This subchapter does not apply if each of the lots of the subdivision is 10 or more acres.


§ 232.023. Plat Required

(a) A subdivider of land must have a plat of the subdivision prepared. A subdivision of a tract under this subsection includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

(b) A plat required under this section must:


§ 232.023. Plat Required

(a) A subdivider of land must have a plat of the subdivision prepared. A subdivision of a tract under this subsection includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

(b) A plat required under this section must:
be certified by a surveyor or engineer registered to practice in this state;

(2) define the subdivision by metes and bounds;

(3) locate the subdivision with respect to an original corner of the original survey of which it is a part;

(4) describe each lot, number each lot in progression, and give the dimensions of each lot;

(5) state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part;

(6) include or have attached a document containing a description in English and Spanish of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable;

(7) have attached a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities proposed under Subdivision (6) are in compliance with the model rules adopted under Section 16.343, Water Code, and a certified estimate of the cost to install water and sewer service facilities;

(8) provide for drainage in the subdivision to:

(A) avoid concentration of storm drainage water from each lot to adjacent lots;

(B) provide positive drainage away from all buildings; and

(C) coordinate individual lot drainage with the general storm drainage pattern for the area;

(9) include a description of the drainage requirements as provided in Subdivision (8);

(10) identify the topography of the area;

(11) include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain; and

(12) include certification that the subdivider has complied with the requirements of Section 232.032 and that:

(A) the water quality and connections to the lots meet, or will meet, the minimum state standards;

(B) sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards;

(C) electrical connections provided to the lot meet, or will meet, the minimum state standards; and
(D) gas connections, if available, provided to the lot meet, or will meet, the minimum state standards.

(c) A subdivider may meet the requirements of Subsection (b)(12)(B) through the use of a certificate issued by the appropriate county or state official having jurisdiction over the approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems.

(d) The subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat.

(e) The plat must be filed and recorded with the county clerk of the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.


§ 232.024. Approval by County Required

(a) A plat filed under Section 232.023 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless:

1. The subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code; and
2. The plat evidences a restrictive covenant prohibiting the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code.

(c) On request, the county clerk shall provide the attorney general or the Texas Water Development Board:
1. A copy of each plat that is approved under this subchapter; or
2. The reasons in writing and any documentation that support a variance granted under Section 232.042.

(d) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.034 relating to conflicts of interest.

§ 232.025. Subdivision Requirements

By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in English and Spanish in a newspaper of general circulation in the county, the commissioners court shall for each subdivision:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision; and

(7) require that the subdivider of the tract execute a bond in the manner provided by Section 232.027.


§ 232.026. Water and Sewer Service Extension

(a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.

(c) If the commissioners court provides an extension, the commissioners court shall notify the attorney general of the extension and the reason for the extension. The attorney general shall notify all other state agencies having enforcement power over subdivisions of the extension.


§ 232.025. Subdivision Requirements

By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in English and Spanish in a newspaper of general circulation in the county, the commissioners court shall for each subdivision:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision; and

(7) require that the subdivider of the tract execute a bond in the manner provided by Section 232.027.


§ 232.026. Water and Sewer Service Extension

(a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.

(c) If the commissioners court provides an extension, the commissioners court shall notify the attorney general of the extension and the reason for the extension. The attorney general shall notify all other state agencies having enforcement power over subdivisions of the extension.

§ 232.027. Bond Requirements

(a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.024, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.


§ 232.028. Certification Regarding Compliance With Plat Requirements

(a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land to which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.023.

(c) The request made under Subsection (b) must identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations under that subsection.

§ 232.027. Bond Requirements

(a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.024, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.


§ 232.028. Certification Regarding Compliance With Plat Requirements

(a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.023.

(c) The request made under Subsection (b) must identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations under that subsection.
(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.

(g) The commissioners court may impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The amount of the fee may be the greater of § 30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115. A person who obtains a certificate under this section is not required to obtain a certificate under Section 212.0115.


§ 232.029. Connection of Utilities in Counties within 50 Miles of International Border.

(a) This section applies only to a county defined under Section 232.022(a)(1).

(a-1) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(b) Except as provided by Subsections (c) and (k) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.

(g) The commissioners court may impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The amount of the fee may be the greater of § 30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115. A person who obtains a certificate under this section is not required to obtain a certificate under Section 212.0115.


§ 232.029. Connection of Utilities in Counties within 50 Miles of International Border.

(a) This section applies only to a county defined under Section 232.022(a)(1).

(a-1) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(b) Except as provided by Subsections (c) and (k) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;
(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A);

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 2003; and

(D) has had adequate sewer services installed to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code; or

(3) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land’s subdivider or the subdivider’s agent; and

(2) provides to the utility a certificate described by Subsection (c).

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

(2) a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, or September 1, 1999, as applicable under Subsection (c); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Section 232.021(14) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code.

(g) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution to or waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) The prohibition established by this section shall not prohibit a water, sewer, electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code, and was subdivided by a plat approved prior to September 1, 1989.

(j) In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(k) Subject to Subsections (l) and (m), a utility that does not hold a certificate issued by, or has not received a determination from, the commissioners court under Section 232.028 to serve or connect subdivided property with electricity or gas may provide that service to a single-family residential dwelling on that property:

(1) the person requesting utility service:

(A) is the owner and occupant of the residential dwelling; and

(B) on or before January 1, 2001, owned and occupied the residential dwelling;

(2) the utility previously provided the utility service on or before January 1, 2001, to the property for the person requesting the service;

(3) the utility service provided as described by Subdivision (2) was terminated not earlier than five years before the date on which the person requesting utility service submits an application for that service; and

(4) providing the utility service will not result in:

(A) an increase in the volume of utility service provided to the property; or

(B) more than one utility connection for each single-family residential dwelling located on the property.

(l) A utility may provide service under Subsection (k) only if the person requesting the service provides to the commissioners court documentation that evidences compliance with the requirements of Subsection (k) and that is satisfactory to the commissioners court.
(m) A utility may not serve or connect subdivided property as described by Subsection (k) if, on or after September 1, 2007, any existing improvements on that property are modified.

(n) The commissioners court may impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The amount of the fee may be the greater of $30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115. A person who obtains a certificate under this section is not required to obtain a certificate under Section 212.0115.

(n) Except as provided by Subsection (o), this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonies or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code, if applicable.

(o) A utility may not serve any subdivided land with water utility connection or service under Subsection (n) unless the entity receives a determination from the county commissioners court under Section 232.028(b)(3) that adequate sewer services have been installed to service the lot or dwelling.


§ 232.0291. Connection of Utilities in Certain Counties within 100 Miles of International Border.

(a) This section applies only to a county defined under Section 232.022(a)(2).

(b) Except as provided by Subsection (d) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(c) Except as provided by Subsection (d) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners.
court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(d) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract before September 1, 2005;

(B) is located in a subdivision in which the utility has previously provided service; and

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before September 1, 2005; or

(2) the subdivided land was not subdivided after September 1, 2005, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

e) A utility may provide utility service to subdivided land described by Subsection (d)(1) only if the person requesting service:

(1) is not the land’s subdivider or the subdivider’s agent; and

(2) provides to the utility a certificate described by Subsection (d)(1).

f) A person requesting service may obtain a certificate under Subsection (d)(1) only if the person provides to the commissioners court either:

(1) documentation containing:

(A) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 2005; and

(B) a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005; or

(2) a notarized affidavit by the person requesting service that states that:
(A) the property was sold or conveyed to that person before September 1, 2005; and

(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005.

(g) A person requesting service may obtain a certificate under Subsection (d)(2) only if the person provides to the commissioners court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider’s agent after September 1, 2005.

(b) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(i) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(j) The prohibition established by this section does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot:

(1) sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider before September 1, 2005;

(2) located within a subdivision where the utility has previously established service; and

(3) subdivided by a plat approved before September 1, 1989.

(k) In this section, “foundation” means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.


§ 232.030. Subdivision Regulation; County Authority

(a) The commissioners court for each county shall adopt and enforce the model rules developed under Section 16.343, Water Code.

(b) Except as provided by Section 16.350(d), Water Code, or Section 232.042 or 232.043, the commissioners court may not grant a variance or adopt regulations that waive any requirements of this subchapter.

(c) The commissioners court shall adopt regulations setting forth requirements for:

(1) potable water sufficient in quality and quantity to meet minimum state standards;

(2) solid waste disposal meeting minimum state standards and rules adopted by the county under Chapter 364, Health and Safety Code

(A) the property was sold or conveyed to that person before September 1, 2005; and

(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005.

(g) A person requesting service may obtain a certificate under Subsection (d)(2) only if the person provides to the commissioners court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider’s agent after September 1, 2005.

(b) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(i) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(j) The prohibition established by this section does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot:

(1) sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider before September 1, 2005;

(2) located within a subdivision where the utility has previously established service; and

(3) subdivided by a plat approved before September 1, 1989.

(k) In this section, “foundation” means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.


§ 232.030. Subdivision Regulation; County Authority

(a) The commissioners court for each county shall adopt and enforce the model rules developed under Section 16.343, Water Code.

(b) Except as provided by Section 16.350(d), Water Code, or Section 232.042 or 232.043, the commissioners court may not grant a variance or adopt regulations that waive any requirements of this subchapter.

(c) The commissioners court shall adopt regulations setting forth requirements for:

(1) potable water sufficient in quality and quantity to meet minimum state standards;

(2) solid waste disposal meeting minimum state standards and rules adopted by the county under Chapter 364, Health and Safety Code
(3) sufficient and adequate roads that satisfy the standards adopted by the county;
(4) sewer facilities meeting minimum state standards;
(5) electric service and gas service; and

(d) In adopting regulations under Subsection (c)(2), the commissioners court may allow one or more commercial providers to provide solid waste disposal services as an alternative to having the service provided by the county.


§ 232.0305. County Inspector

(a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.


§ 232.031. Requirements Prior to Sale or Lease

(a) Except as provided by Subsection (d), a subdivider may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(b) Not later than the 30th day after the date a lot is sold, a subdivider shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section 232.033, leases, and any other documents that convey an interest in the subdivided land.

(c) A document filed under Subsection (b) is a public record.

(d) In a county defined under Section 232.022(a)(2), a subdivider may not sell or lease land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

§ 232.032. Services Provided by Subdivider

A subdivider having an approved plat for a subdivision shall:

(1) furnish a certified letter from the utility provider stating that water is available to the subdivision sufficient in quality and quantity to meet minimum state standards required by Section 16.343, Water Code, and consistent with the certification in the letter, and that water of that quality and quantity will be made available to the point of delivery to all lots in the subdivision;

(2) furnish sewage treatment facilities that meet minimum state standards to fulfill the wastewater requirements of the subdivision or furnish certification by the appropriate county or state official having jurisdiction over the approval of the septic systems indicating that lots in the subdivision can be adequately and legally served by septic systems as provided under Chapter 366, Health and Safety Code;

(3) furnish roads satisfying minimum standards as adopted by the county;

(4) furnish adequate drainage meeting standard engineering practices; and

(5) make a reasonable effort to have electric utility service and gas utility service installed by a utility.


§ 232.033. Advertising Standards and Other Requirements Before Sale; Offense

(a) Brochures, publications, and advertising of any form relating to subdivided land:

(1) may not contain any misrepresentation; and

(2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities.

(b) The subdivider shall provide a copy in Spanish of all written documents relating to the sale of subdivided land under an executory contract, including the contract, disclosure notice, and annual statement required by this section and a notice of default required by Subchapter D, Chapter 5, Property Code, if:

(1) negotiations that precede the execution of the executory contract are conducted primarily in Spanish; or

(2) the purchaser requests the written documents to be provided in Spanish.

(c) Before an executory contract is signed by the purchaser, the subdivider shall provide the purchaser with a written notice, which must be attached to the executory contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the subdivider and purchaser, be acknowledged, and read substantially similar to the following:

IF ANY OF THE ITEMS BELOW HAVE NOT BEEN CHECKED, YOU MAY NOT BE ABLE TO LIVE ON THE PROPERTY.

§ 232.032. Services Provided by Subdivider

A subdivider having an approved plat for a subdivision shall:

(1) furnish a certified letter from the utility provider stating that water is available to the subdivision sufficient in quality and quantity to meet minimum state standards required by Section 16.343, Water Code, and consistent with the certification in the letter, and that water of that quality and quantity will be made available to the point of delivery to all lots in the subdivision;

(2) furnish sewage treatment facilities that meet minimum state standards to fulfill the wastewater requirements of the subdivision or furnish certification by the appropriate county or state official having jurisdiction over the approval of the septic systems indicating that lots in the subdivision can be adequately and legally served by septic systems as provided under Chapter 366, Health and Safety Code;

(3) furnish roads satisfying minimum standards as adopted by the county;

(4) furnish adequate drainage meeting standard engineering practices; and

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(b) The subdivider shall provide a copy in Spanish of all written documents relating to the sale of subdivided land under an executory contract, including the contract, disclosure notice, and annual statement required by this section and a notice of default required by Subchapter D, Chapter 5, Property Code, if:

(1) negotiations that precede the execution of the executory contract are conducted primarily in Spanish; or

(2) the purchaser requests the written documents to be provided in Spanish.

(c) Before an executory contract is signed by the purchaser, the subdivider shall provide the purchaser with a written notice, which must be attached to the executory contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the subdivider and purchaser, be acknowledged, and read substantially similar to the following:

IF ANY OF THE ITEMS BELOW HAVE NOT BEEN CHECKED, YOU MAY NOT BE ABLE TO LIVE ON THE PROPERTY.
WARNING

CONCERNING THE PROPERTY AT (street address or legal description and municipality)

THIS DOCUMENT STATES THE TRUE FACTS ABOUT THE LAND YOU ARE CONSIDERING PURCHASING.

CHECK OFF THE ITEMS THAT ARE TRUE:

- The property is in a recorded subdivision.
- The property has water service that provides potable water.
- The property has sewer service or a septic system.
- The property has electric service.
- The property is not in a flood-prone area.
- The roads are paved.
- No person other than the subdivider:
  (1) owns the property;
  (2) has a claim of ownership to the property; or
  (3) has an interest in the property.
- No person has a lien filed against the property.
- There are no back taxes owed on the property.

NOTICE

SELLER ADVISES PURCHASER TO:

(1) OBTAIN A TITLE ABSTRACT OR TITLE COMMITMENT REVIEWED BY AN ATTORNEY BEFORE SIGNING A CONTRACT OF THIS TYPE; AND

(2) PURCHASE AN OWNER'S POLICY OF TITLE INSURANCE COVERING THE PROPERTY.

(Date) (Signature of Subdivider)

(Date) (Signature of Purchaser)
(d) The subdivider shall provide any purchaser who is sold a lot under an executory contract with an annual statement in January of each year for the term of the executory contract. If the subdivider mails the statement to the purchaser, the statement must be postmarked not later than January 31.

(e) The statement under Subsection (d) must include the following information:

(1) the amount paid under the contract;

(2) the remaining amount owed under the contract;

(3) the annual interest rate charged under the contract during the preceding 12-month period; and

(4) the number of payments remaining under the contract.

(f) If the subdivider fails to comply with Subsections (d) and (e), the purchaser may:

(1) notify the subdivider that the purchaser has not received the statement and will deduct 15 percent of each monthly payment due until the statement is received; and

(2) not earlier than the 25th day after the date the purchaser provides the subdivider notice under this subsection, deduct 15 percent of each monthly payment due until the statement is received by the purchaser.

(g) A purchaser who makes a deduction under Subsection (f) is not required to reimburse the subdivider for the amount deducted.

(h) A person who is a seller of lots in a subdivision, or a subdivider or an agent of a seller or subdivider, commits an offense if the person knowingly authorizes or assists in the publication, advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any subdivided land offered for sale or lease. An offense under this section is a Class A misdemeanor.


§ 232.034. Conflict of Interest; Penalty

(a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has an interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract;

(2) acts as a developer of the tract;

(3) owns voting stock or shares of a business entity that:

(A) has an equitable or legal ownership interest in the tract; or
(B) acts as a developer of the tract; or

(4) receives in a calendar year money or anything of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.


§ 232.035. Civil Penalties

(a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) Notwithstanding any other remedy at law or equity, a subdivider or an agent of a subdivider may not cause, suffer, allow, or permit any part of a subdivision over which the subdivider or an agent of the subdivider has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

(c) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than $500 or more than $1,000 for each violation and for each day of a continuing violation but not to exceed $5,000 each day and shall also pay court costs, investigative costs, and attorney’s fees for the governmental entity bringing the suit.

(d) Except as provided by Subsection (e), a person who violates Subsection (a) or (b) is subject to a civil penalty of not less than $10,000 or more than $15,000 for each lot conveyed or each subdivision that becomes a nuisance. The person must also pay court costs, investigative costs, and attorney’s fees for the governmental entity bringing the suit.

(b) acts as a developer of the tract; or

(4) receives in a calendar year money or anything of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

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(c) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than $500 or more than $1,000 for each violation and for each day of a continuing violation but not to exceed $5,000 each day and shall also pay court costs, investigative costs, and attorney’s fees for the governmental entity bringing the suit.

(d) Except as provided by Subsection (e), a person who violates Subsection (a) or (b) is subject to a civil penalty of not less than $10,000 or more than $15,000 for each lot conveyed or each subdivision that becomes a nuisance. The person must also pay court costs, investigative costs, and attorney’s fees for the governmental entity bringing the suit.
(e) A person who violates Subsection (b) is not subject to a fine under Subsection (d) if the person corrects the nuisance not later than the 30th day after the date the person receives notice from the attorney general or a local health authority of the nuisance.

(f) Venue for an action under this section is in a district court of Travis County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.


§ 232.036. Criminal Penalties

(a) A subdivider commits an offense if the subdivider knowingly fails to file a plat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

(b) A subdivider who owns a subdivision commits an offense if the subdivider knowingly fails to timely provide for the construction or installation of water or sewer service as required by Section 232.032 or fails to make a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.032. An offense under this subsection is a Class A misdemeanor.

(c) If it is shown at the trial of an offense under Subsection (a) that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony.

(d) A subdivider commits an offense if the subdivider allows the conveyance of a lot in the subdivision without the appropriate water and sewer utilities as required by Section 232.032 or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.032. An offense under this section is a Class A misdemeanor. Each lot conveyed constitutes a separate offense.

(e) Venue for prosecution for a violation under this section is in the county in which any element of the violation is alleged to have occurred or in Travis County.


§ 232.037. Enforcement

(a) The attorney general, or the district attorney, criminal district attorney, county attorney with felony responsibilities, or county attorney of the county may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

(1) enjoin the violation or threatened violation of the model rules adopted under Section 16.343, Water Code;

(2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney’s fees, litigation costs, and investigation costs; and

(e) A person who violates Subsection (b) is not subject to a fine under Subsection (d) if the person corrects the nuisance not later than the 30th day after the date the person receives notice from the attorney general or a local health authority of the nuisance.

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(c) If it is shown at the trial of an offense under Subsection (a) that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony.

(d) A subdivider commits an offense if the subdivider allows the conveyance of a lot in the subdivision without the appropriate water and sewer utilities as required by Section 232.032 or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.032. An offense under this section is a Class A misdemeanor. Each lot conveyed constitutes a separate offense.

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(3) recover civil or criminal penalties, attorney’s fees, litigation costs, and investigation costs; and
(4) require platting or replatting under Section 232.040.

(b) The attorney general, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under Section 232.030(h) or 232.036.

(c) During the pendency of any enforcement action brought, any resident of the affected subdivision, or the attorney general, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of pre-existing utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health, safety, or welfare of the residents.

(d) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.


§ 232.038. Suit by Private Person in Economically Distressed Area

(a) Except as provided by Subsection (b), a person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.021, Water Code, from a subdivider, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void, require the subdivider to return the purchase price of the property, and recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney’s fees; or

(2) enjoin a violation or threatened violation of Section 232.032, require the subdivider to plat or replat under Section 232.040, and recover from the subdivider:

(A) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(B) court costs; and

(C) reasonable attorney’s fees.

(b) If the lot is located in a county defined under Section 232.022(2), a person may only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

(4) require platting or replatting under Section 232.040.

(b) The attorney general, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under Section 232.030(h) or 232.036.

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(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney’s fees; or

(2) enjoin a violation or threatened violation of Section 232.032, require the subdivider to plat or replat under Section 232.040, and recover from the subdivider:

(A) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(B) court costs; and

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(b) If the lot is located in a county defined under Section 232.022(2), a person may only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.
§ 232.039. Cancellation of Subdivision

(a) A subdivider of land may apply to the commissioners court to cancel all or part of the subdivision in the manner provided by Section 232.008 after notice and hearing as provided by this section.

(b) A resident of a subdivision for which the subdivider has applied for cancellation under Subsection (a) has the same rights as a purchaser of land under Section 232.008.

(c) The notice required by Section 232.008(c) must also be published in Spanish in the newspaper of highest circulation and in a Spanish-language newspaper in the county if available.

(d) Not later than the 14th day before the date of the hearing, the county chief appraiser shall by regular and certified mail provide notice containing the information described by Section 232.008(c) to:

(1) each person who pays property taxes in the subdivision, as determined by the most recent tax roll; and

(2) each person with an interest in the property.

(e) The commissioners court may require a subdivider to provide the court with the name and last known address of each person with an interest in the property. For purposes of this subsection, a person residing on a lot purchased through an executory contract has an interest in the property.

(f) A person who fails to provide information requested under Subsection (e) before the 31st day after the date the request is made is liable to the state for a penalty of $500 for each week the person fails to provide the information.

(g) The commissioners court may cancel a subdivision only after a public hearing. At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the commissioners court shall adopt an order on whether to cancel the subdivision.


§ 232.040. Replatting

(a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is replatted or replatted as required by this subchapter. A subdivider or agent of a subdivider may not transfer a lot through an executory contract or other


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(2) each person with an interest in the property.

(e) The commissioners court may require a subdivider to provide the court with the name and last known address of each person with an interest in the property. For purposes of this subsection, a person residing on a lot purchased through an executory contract has an interest in the property.

(f) A person who fails to provide information requested under Subsection (e) before the 31st day after the date the request is made is liable to the state for a penalty of $500 for each week the person fails to provide the information.

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(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is replatted or replatted as required by this subchapter. A subdivider or agent of a subdivider may not transfer a lot through an executory contract or other
similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.061, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply if a seller other than a subdivider or agent of a subdivider resides on the lot.

(d) The attorney general or a district or county attorney with jurisdiction may bring a proceeding under Subsection (b).

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.029 or 232.0291.


§ 232.041. Revision of Plat

(a) A person who has subdivided land that is subject to the subdivision controls of the county in which the land is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat filed for record with the county clerk.

(b) After the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. If all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner’s address in the subdivided tract.

(c) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has agreed to the revision.

(d) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

§ 232.042. Variances From Replatting Requirements

(a) On request of a subdivider or resident purchaser, the commissioners court may grant a delay or a variance from compliance with Section 232.040 as provided by this section.

(b) The commissioners court may grant a delay of two years if the reason for the delay is to install utilities. A person may apply for one renewal of a delay under this subsection. To obtain an initial delay under this subsection, a subdivider must:

(1) identify the affected utility providers;

(2) provide the terms and conditions on which service may be provided; and

(3) provide a certified letter from each utility provider stating that it has the right to serve the area and it will serve the area.

(c) The commissioners court may grant a delay or a variance for a reason other than a reason described by Subsection (b) if it is shown that compliance would be impractical or would be contrary to the health and safety of residents of the subdivision. The commissioners court must issue written findings stating the reasons why compliance is impractical.

(d) A delay or a variance granted by the commissioners court is valid only if the commissioners court notifies the attorney general of the delay or variance and the reasons for the delay or variance not later than the 30th day after the date the commissioners court grants the delay or variance.

(e) Until approved water and sewer services are made available to the subdivision, the subdivider of land for which a delay is granted under this section must provide at no cost to residents:

(1) 25 gallons of potable water a day for each resident and a suitable container for storing the water; and

(2) suitable temporary sanitary wastewater disposal facilities.


§ 232.043. Variances From Platting Requirements

(a) On the request of a subdivider who created an unplatted subdivision or a resident purchaser of a lot in the subdivision, the commissioners court of a county may grant:

(1) a delay or variance from compliance with the subdivision requirements prescribed by Section 232.023(b)(9) or (f), 232.025(f), (2), (3), (4), or (5), or 232.000(c)(2), (3), (5), or (6); or

(2) a delay or variance for an individual lot from compliance with the requirements prescribed by the model subdivision rules adopted under Section 16.343, Water Code, for:


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(1) a delay or variance from compliance with the subdivision requirements prescribed by Section 232.023(b)(9) or (f), 232.025(f), (2), (3), (4), or (5), or 232.000(c)(2), (3), (5), or (6); or

(2) a delay or variance for an individual lot from compliance with the requirements prescribed by the model subdivision rules adopted under Section 16.343, Water Code, for:
(A) the distance that a structure must be set back from roads or property lines; or

(B) the number of single-family, detached dwellings that may be located on a lot.

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold before:

(A) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(B) September 1, 2005, in a county defined under Section 232.022(a)(2);

(2) a majority of the resident purchasers in the subdivision sign a petition supporting the delay or variance;

(3) the person requesting the delay or variance submits to the commissioners court:

(A) a description of the water and sewer service facilities that will be constructed or installed to service the subdivision;

(B) a statement specifying the date by which the water and sewer service facilities will be fully operational; and

(C) a statement signed by an engineer licensed in this state certifying that the plans for the water and sewer facilities meet the minimum state standards;

(4) the commissioners court finds that the unplatted subdivision at the time the delay or variance is requested is developed in a manner and to an extent that compliance with specific platting requirements is impractical or contrary to the health or safety of the residents of the subdivision; and

(5) the subdivider who created the unplatted subdivision has not violated local law, federal law, or state law, excluding this chapter, in subdividing the land for which the delay or variance is requested, if the subdivider is the person requesting the delay or variance.

(c) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision owns property in the subdivision, the commissioners court may grant a provisional delay or variance only if the requirements of Subsection (b) are satisfied. The commissioners court may issue a final grant of the delay or variance only if the commissioners court has not received objections from the attorney general before the 91st day after the date the commissioners court submits the record of its proceedings to the attorney general as prescribed by Subsection (d).

(d) If the commissioners court grants a delay or variance under this section, the commissioners court shall:

(1) make findings specifying the reason compliance with each requirement is impractical or contrary to the health or safety of residents of the subdivision;
(2) keep a record of its proceedings and include in the record documentation of the findings and the information submitted under Subsection (b); and

(3) submit a copy of the record to the attorney general.

(e) The failure of the attorney general to comment or object to a delay or variance granted under this section does not constitute a waiver of or consent to the validity of the delay or variance granted.

(f) This section does not affect a civil suit filed against, a criminal prosecution of, or the validity of a penalty imposed on a subdivider for a violation of law, regardless of the date on which the violation occurred.


§ 232.044. Amending Plat

The commissioners court may approve and issue an amending plat under this subchapter in the same manner, for the same purposes, and subject to the same related provisions as provided by Section 232.011.


SUBCHAPTER C. SUBDIVISION PLATTING REQUIREMENTS IN CERTAIN ECONOMICALLY DISTRESSED COUNTIES

§ 232.071. Applicability

This subchapter applies only to the subdivision of land located:

(1) outside the corporate limits of a municipality; and

(2) in a county:
   (A) in which is located a political subdivision that is eligible for and has applied for financial assistance under Section 15.407, Water Code, or Subchapter K, Chapter 17, Water Code; and
   (B) to which Subchapter B does not apply.


§ 232.072. Plat Required

(a) The owner of a tract of land that divides the tract in any manner that creates lots of five acres or less intended for residential purposes must have a plat of the subdivision prepared. A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

(2) keep a record of its proceedings and include in the record documentation of the findings and the information submitted under Subsection (b); and

(3) submit a copy of the record to the attorney general.

(e) The failure of the attorney general to comment or object to a delay or variance granted under this section does not constitute a waiver of or consent to the validity of the delay or variance granted.

(f) This section does not affect a civil suit filed against, a criminal prosecution of, or the validity of a penalty imposed on a subdivider for a violation of law, regardless of the date on which the violation occurred.


§ 232.044. Amending Plat

The commissioners court may approve and issue an amending plat under this subchapter in the same manner, for the same purposes, and subject to the same related provisions as provided by Section 232.011.


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   (A) in which is located a political subdivision that is eligible for and has applied for financial assistance under Section 15.407, Water Code, or Subchapter K, Chapter 17, Water Code; and
   (B) to which Subchapter B does not apply.


§ 232.072. Plat Required

(a) The owner of a tract of land that divides the tract in any manner that creates lots of five acres or less intended for residential purposes must have a plat of the subdivision prepared. A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.
(b) A plat required under this section must:

1. Include on the plat or have attached to the plat a document containing a description of the water and sewer service facilities that will be constructed or installed to service the subdivision and a statement of the date by which the facilities will be fully operable; and

2. Have attached to the plat a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities described by the plat or the document attached to the plat are in compliance with the model rules adopted under Section 16.343, Water Code.

(c) A plat required under this section must be filed and recorded with the county clerk in the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.


§ 232.073. Approval by County Required

(a) A plat filed under Section 232.072 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.079 relating to conflicts of interest.


§ 232.074. Bond Requirements

(a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.073, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the Federal Deposit Insurance Corporation. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.


(b) A plat required under this section must:

1. Include on the plat or have attached to the plat a document containing a description of the water and sewer service facilities that will be constructed or installed to service the subdivision and a statement of the date by which the facilities will be fully operable; and

2. Have attached to the plat a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities described by the plat or the document attached to the plat are in compliance with the model rules adopted under Section 16.343, Water Code.

(c) A plat required under this section must be filed and recorded with the county clerk in the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.


§ 232.073. Approval by County Required

(a) A plat filed under Section 232.072 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.079 relating to conflicts of interest.


§ 232.074. Bond Requirements

(a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.073, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the Federal Deposit Insurance Corporation. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.

§ 232.075. Water and Sewer Service Extension

(a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.


§ 232.076. Certification Regarding Compliance With Plat Requirements

(a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On its own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall:

(1) determine whether a plat is required under this subchapter for an identified tract of land that is located within the jurisdiction of the county; and

(2) if a plat is required for the identified tract, determine whether a plat has been reviewed and approved by the commissioners court.

(c) The request made under Subsection (b) must adequately identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations.

(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.


§ 232.077. Connection of Utilities in Certain Counties

(a) This section applies only to a tract of land for which a plat is required under this subchapter.
§ 232.0775. County Inspector
(a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.


§ 232.0776. Conflict of Interest: Penalty
(a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has an interest in a subdivided tract if the person:

(c) The prohibition established by Subsection (b) applies only to:

1. a municipality, and officials of the municipality, that provides water, sewer, electricity, gas, or other utility service; and

2. a public utility that provides any of those services;

3. a water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides any of those services;

4. a county that provides any of those services; and

5. a special district or authority created by or under state law that provides any of those services.

(d) The prohibition established by Subsection (b) applies only to land that an entity described by Subsection (c) first serves or first connects with services:

1. between September 1, 1989, and June 16, 1995; or

2. after the effective date of this subchapter.

(1) has an equitable or legal ownership interest in the tract;
(2) acts as a developer of the tract;
(3) owns voting stock or shares of a business entity that:
   (A) has an equitable or legal ownership interest in the tract; or
   (B) acts as a developer of the tract; or
(4) receives in a calendar year money or anything of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.


§ 232.079. Civil Penalties

(a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than $500 or more than $1,000 for each violation and for each day of a continuing violation but not to exceed $5,000 each day and shall also pay court costs, investigative costs, and attorney’s fees for the governmental entity bringing the suit.

(1) has an equitable or legal ownership interest in the tract;
(2) acts as a developer of the tract;
(3) owns voting stock or shares of a business entity that:
   (A) has an equitable or legal ownership interest in the tract; or
   (B) acts as a developer of the tract; or
(4) receives in a calendar year money or anything of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.


§ 232.079. Civil Penalties

(a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than $500 or more than $1,000 for each violation and for each day of a continuing violation but not to exceed $5,000 each day and shall also pay court costs, investigative costs, and attorney’s fees for the governmental entity bringing the suit.
(c) Venue for an action under this section is in a district court of Travis County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.


§ 232.080. Enforcement

(a) The attorney general, or the district attorney, criminal district attorney, or county attorney, may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

(1) enjoin the violation or threatened violation of applicable model rules adopted under Section 16.343, Water Code;

(2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney’s fees, litigation costs, and investigation costs; and

(4) require platting as required by this subchapter.

(b) During the pendency of any enforcement action brought, any resident of the affected subdivision, or the attorney general, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of preexisting utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health or to the health, safety, or welfare of the residents. This subsection does not prohibit a provider of utilities from terminating services under other law to a resident who has failed to timely pay for services.

(c) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.


§ 232.081. Amending Plat

The commissioners may approve and issue an amending plat under this subchapter in the same manner, for the same purposes, and subject to the same related provisions as provided by Section 232.011.


SUBCHAPTER D. COUNTY PLANNING COMMISSION

§ 232.091. Applicability

This subchapter applies only to a county:
§ 232.092. Establishment and Abolition of Planning Commission

(a) To promote the general public welfare, the commissioners court of a county by order may:

(1) establish a planning commission under this section; and

(2) abolish a planning commission established under this section.

(b) The commissioners court may authorize the planning commission to act on behalf of the commissioners court in matters relating to:

(1) the duties and authority of the commissioners court under Subchapter A, B, or C; and

(2) land use, health and safety, planning and development, or other enforcement provisions specifically authorized by law.

(c) If the commissioners court establishes a planning commission, the commissioners court by order shall adopt reasonable rules and procedures necessary to administer this subchapter.

(d) This subchapter does not grant a commissioners court or a planning commission the power to regulate the use of property for which a permit has been issued to engage in a federally licensed activity.


§ 232.093. Appointment of Members of Planning Commission

(a) The commissioners court may appoint a planning commission consisting of five members. Members are appointed for staggered terms of two years.

(b) A person appointed as a member of the planning commission must be a citizen of the United States and reside in the county.

(c) The commissioners court shall file with the county clerk a certificate of appointment for each commission member.

(d) The commissioners court shall fill any vacancy on the commission.

(e) Before a planning commission member undertakes the duties of the office, the member must:

(1) take the official oath; and

(f) The planning commission in turn establishes a Subchapter B or C commission.

(2) swear in writing that the member will promote the interest of the county as a whole and not only a private interest or the interest of a special group or location in the county.

(f) A member of the planning commission serves at the pleasure of the commissioners court and is subject to removal as provided by Chapter 87.


§ 232.094. Financial Disclosure

(a) A member of the planning commission shall file a financial disclosure report in the same manner as required for county officers under Subchapter B, Chapter 159.

(b) If the commissioners court of the county in which the planning commission member serves has not adopted a financial disclosure reporting system under Subchapter B, Chapter 159, the planning commission member shall file a financial disclosure report in the same manner as required for county officers under Subchapter A, Chapter 159.


§ 232.095. Officers, Quorum, and Meetings

(a) At the first meeting of each calendar year, the planning commission shall elect a presiding officer and assistant presiding officer. The presiding officer presides over the meetings and executes all documentation required on behalf of the planning commission. The assistant presiding officer represents the presiding officer during the presiding officer’s absence.

(b) There is no limitation on the number of terms a member may serve on the commission.

(c) Minutes of the planning commission’s proceedings must be filed with the county clerk or other county officer or employee designated by the commissioners court. The minutes of the planning commission’s proceedings are a public record.

(d) The planning commission is subject to Chapters 551 and 552, Government Code.

(e) The planning commission may adopt rules necessary to administer this subchapter. Rules adopted under this subsection are subject to approval by the commissioners court.


§ 232.096. Timely Approval of Plats

(a) The planning commission shall issue a written list of the documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized by law. An application submitted to the planning commission that contains the documents and other information on the list is considered complete.

(2) swear in writing that the member will promote the interest of the county as a whole and not only a private interest or the interest of a special group or location in the county.

(f) A member of the planning commission serves at the pleasure of the commissioners court and is subject to removal as provided by Chapter 87.


§ 232.094. Financial Disclosure

(a) A member of the planning commission shall file a financial disclosure report in the same manner as required for county officers under Subchapter B, Chapter 159.

(b) If the commissioners court of the county in which the planning commission member serves has not adopted a financial disclosure reporting system under Subchapter B, Chapter 159, the planning commission member shall file a financial disclosure report in the same manner as required for county officers under Subchapter A, Chapter 159.


§ 232.095. Officers, Quorum, and Meetings

(a) At the first meeting of each calendar year, the planning commission shall elect a presiding officer and assistant presiding officer. The presiding officer presides over the meetings and executes all documentation required on behalf of the planning commission. The assistant presiding officer represents the presiding officer during the presiding officer’s absence.

(b) There is no limitation on the number of terms a member may serve on the commission.

(c) Minutes of the planning commission’s proceedings must be filed with the county clerk or other county officer or employee designated by the commissioners court. The minutes of the planning commission’s proceedings are a public record.

(d) The planning commission is subject to Chapters 551 and 552, Government Code.

(e) The planning commission may adopt rules necessary to administer this subchapter. Rules adopted under this subsection are subject to approval by the commissioners court.


§ 232.096. Timely Approval of Plats

(a) The planning commission shall issue a written list of the documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized by law. An application submitted to the planning commission that contains the documents and other information on the list is considered complete.
(b) If a person submits an incomplete plat application to the planning commission, the planning commission or its designee shall, not later than the 15th business day after the date the planning commission or its designee receives the application, notify the applicant of the missing documents or other information. The planning commission or its designee shall allow an applicant to timely submit the missing documents or other information.

(c) An application is considered complete on the date all documentation and other information required by Subsection (a) is received by the planning commission.

(d) If the approval of the plat is within the exclusive jurisdiction of the planning commission, the planning commission shall take final action on a plat application, including the resolution of all appeals, not later than the 60th day after the date a completed plat application is received by the planning commission.

(e) The time period prescribed by Subsection (d) may be extended for:

(1) a reasonable period if requested by the applicant; and

(2) an additional 60 days if the county is required under Chapter 2007, Government Code, to perform a takings impact assessment in connection with a plat submitted for approval.

(f) The planning commission may not compel an applicant to waive the time limits prescribed by this section.

(g) If the planning commission fails to take final action on the completed plat application as required by this section, the applicant may apply to a district court in the county in which the land is located for a mandamus order to compel the planning commission to approve or disapprove the plat. A planning commission subject to a mandamus order under this subsection shall make a decision approving or disapproving the plat not later than the 20th business day after the date a copy of the mandamus order is served on the presiding officer of the planning commission. If the planning commission approves the plat, the planning commission, within the 20-day period prescribed by this subsection, shall:

(1) refund the greater of the unexpended portion of any plat application fee or deposit or 50 percent of a plat application fee or deposit that has been paid;

(2) determine the appropriate amount of any bond or other financial guarantee required in connection with the plat approval; and

(3) issue documents recognizing the plat’s approval.

(h) Except as provided by this subsection, an approval of a plat by the planning commission is final on the 31st day after the date the planning commission votes to approve the plat. On the request of a county commissioner, the commissioners court shall review a plat approved by the planning commission not later than the 30th day after the date the planning commission votes to approve the plat. The commissioners court may disapprove the plat if the plat fails to comply with state law or rules adopted by the county or the planning commission. If the commissioners court fails to take action within the 30-day period prescribed by this subsection, the decision of the planning commission is final.
§ 232.097. Reasons for Disapproval of Plat Required

If the planning commission refuses to approve a plat, the planning commission shall provide to the person requesting approval a notice specifying the reason for the disapproval.


SUBCHAPTER E. INFRASTRUCTURE PLANNING PROVISIONS IN CERTAIN URBAN COUNTIES

§ 232.100. Repealed by Acts 2007, 80th Leg., ch. 1390, § 6, eff. Sept. 1, 2007

§ 232.101. Rules

(a) By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt rules governing plats and subdivisions of land within the unincorporated area of the county to promote the health, safety, morals, or general welfare of the county and the state, orderly, and healthful development of the unincorporated area of the county.

(b) Unless otherwise authorized by state law, a commissioners court shall not regulate under this section:

1. the use of any building or property for business, industrial, residential, or other purposes;

2. the bulk, height, or number of buildings constructed on a particular tract of land;

3. the size of a building that can be constructed on a particular tract of land, including without limitation and restriction on the ratio of building floor space to the land square footage;

4. the number of residential units that can be built per acre of land;

5. a plat or subdivision in an adjoining county; or

6. road access to a plat or subdivision in an adjoining county.

(c) The authority granted under Subsection (a) is subject to the exemptions to plat requirements provided for in Section 232.0015.

§ 232.102. Major Thoroughfare Plan

By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

(1) require a right-of-way on a street or road that functions as a major thoroughfare of a width of not more than 120 feet; or

(2) require a right-of-way on a street or road that functions as a major thoroughfare of a width of more than 120 feet, if such requirement is consistent with a transportation plan adopted by the metropolitan planning organization of the region.


§ 232.103. Lot Frontages

By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt reasonable standards for minimum lot frontages on existing county roads and establish reasonable standards for the lot frontages in relation to curves in the road.


§ 232.104. Set-backs

By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may establish reasonable building and set-back lines as provided by Chapter 233 without the limitation period provided by Section 233.004(c).


§ 232.105. Developer Participation Contracts

(a) Without complying with the competitive sealed bidding procedure of Chapter 262, a commissioners court may make a contract with a developer of a subdivision or land in the unincorporated area of the county to construct public improvements, not including a building, related to the development. If the contract does not meet the requirements of this subchapter, Chapter 262 applies to the contract if the contract would otherwise be governed by that chapter.

(b) Under the contract, the developer shall construct the improvements, and the county shall participate in the cost of the improvements.

(c) The contract must establish the limit of participation by the county at a level not to exceed 30 percent of the total contract price. In addition, the contract may also allow participation by the county at a level not to exceed 100 percent of the total cost for any oversizing of improvements required by the county, including but not limited to increased capacity of improvements to anticipate other future development in the area.

§ 232.102. Major Thoroughfare Plan

By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

(1) require a right-of-way on a street or road that functions as a major thoroughfare of a width of not more than 120 feet; or

(2) require a right-of-way on a street or road that functions as a major thoroughfare of a width of more than 120 feet, if such requirement is consistent with a transportation plan adopted by the metropolitan planning organization of the region.


§ 232.103. Lot Frontages

By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt reasonable standards for minimum lot frontages on existing county roads and establish reasonable standards for the lot frontages in relation to curves in the road.


§ 232.104. Set-backs

By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may establish reasonable building and set-back lines as provided by Chapter 233 without the limitation period provided by Section 233.004(c).


§ 232.105. Developer Participation Contracts

(a) Without complying with the competitive sealed bidding procedure of Chapter 262, a commissioners court may make a contract with a developer of a subdivision or land in the unincorporated area of the county to construct public improvements, not including a building, related to the development. If the contract does not meet the requirements of this subchapter, Chapter 262 applies to the contract if the contract would otherwise be governed by that chapter.

(b) Under the contract, the developer shall construct the improvements, and the county shall participate in the cost of the improvements.

(c) The contract must establish the limit of participation by the county at a level not to exceed 30 percent of the total contract price. In addition, the contract may also allow participation by the county at a level not to exceed 100 percent of the total cost for any oversizing of improvements required by the county, including but not limited to increased capacity of improvements to anticipate other future development in the area.
The county is liable only for the agreed payment of its share, which shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by an order of the commissioners court.

(d) The developer must execute a performance bond for the construction of the improvements to ensure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code.

(e) In the order adopted by the commissioners court under Subsection (c), the county may include additional safeguards against undue loading of cost, collusion, or fraud.


§ 232.106. Connection of Utilities

By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may impose the requirements of Section 232.029 or 232.0291.


§ 232.107. Provisions Cumulative

The authorities under this subchapter are cumulative of and in addition to the authorities granted under this chapter and all other laws to counties to regulate the subdivision of land.


§ 232.108. Plat Requirements

(a) The commissioners court, in addition to having the authority to adopt rules under Section 232.101 and other authority granted by this chapter, may impose the plat requirements prescribed by Section 232.023. If the commissioners court imposes the plat requirements prescribed by Section 232.023, any rules adopted under Section 232.101 must be consistent with those requirements.

(b) If a county imposing the plat requirements prescribed by Section 232.023 is not described by Section 232.022(a):

(1) the document required by Section 232.023(b)(6) is not required to be in Spanish; and

(2) the plat requirements related to drainage shall be those authorized by Section 232.003(8) rather than those authorized by Section 232.023(b)(8).


The county is liable only for the agreed payment of its share, which shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by an order of the commissioners court.

(d) The developer must execute a performance bond for the construction of the improvements to ensure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code.

(e) In the order adopted by the commissioners court under Subsection (c), the county may include additional safeguards against undue loading of cost, collusion, or fraud.


§ 232.106. Connection of Utilities

By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may impose the requirements of Section 232.029 or 232.0291.


§ 232.107. Provisions Cumulative

The authorities under this subchapter are cumulative of and in addition to the authorities granted under this chapter and all other laws to counties to regulate the subdivision of land.


§ 232.108. Plat Requirements

(a) The commissioners court, in addition to having the authority to adopt rules under Section 232.101 and other authority granted by this chapter, may impose the plat requirements prescribed by Section 232.023. If the commissioners court imposes the plat requirements prescribed by Section 232.023, any rules adopted under Section 232.101 must be consistent with those requirements.

(b) If a county imposing the plat requirements prescribed by Section 232.023 is not described by Section 232.022(a):

(1) the document required by Section 232.023(b)(6) is not required to be in Spanish; and

(2) the plat requirements related to drainage shall be those authorized by Section 232.003(8) rather than those authorized by Section 232.023(b)(8).

§ 232.109. Fire Suppression System

In a subdivision that is not served by fire hydrants as part of a centralized water system certified by the Texas Commission on Environmental Quality as meeting minimum standards for water utility service, the commissioners court may require a limited fire suppression system that requires a developer to construct:

(1) for a subdivision of fewer than 50 houses, 2,500 gallons of storage; or

(2) for a subdivision of 50 or more houses, 2,500 gallons of storage with a centralized water system or 5,000 gallons of storage.

In 2001 and 2003, the Legislature changed the way cities and counties regulate development in the extra-territorial jurisdiction (ETJ) of municipalities. The 77th Legislature passed House Bill 1445, amending Chapter 242 of Local Government Code (see discussion of same below) and the 78th Legislature passed House Bill 1204, further amending the same chapter. The text of Chapter 242 is included in this section of the sourcebook.

House Bill 1445

House Bill 1445 significantly changed the way counties and cities regulate development in the ETJ. Under previous law, a plat of land in the ETJ could not be filed with the county clerk without the approval of both the affected municipality and the affected county (provided both these governmental entities exercise their plat review and approval authority). This change created a system whereby a plat applicant in the ETJ applies to a single entity, pays a single fee, and receives approval or denial of the plat application from that single entity. This system has been described as “one-stop shopping” for plat applicants in the ETJ. These changes may be found in Chapter 242, Local Government Code.

This piece of legislation came in partial response to a 1999-2000 interim charge to the House Committee on Land and Resource Management. Then-Speaker of the House Pete Laney directed the committee to study the ability of counties to provide for the appropriate growth and development in unincorporated areas while balancing private property rights. In the course of this study and subsequent hearings during the 77th Legislative Session, the committee heard testimony from builders, developers and local governments regarding the dual review of plats in the ETJ. As stated above, under the old law, both the city and county were allowed to independently review and approve or deny plats in the ETJ, but some developers and homebuilders complained that this caused unnecessary delay and duplicated efforts. Local governments pointed out that cities and counties had both differing authorities and responsibilities and dual review was not an unnecessary bureaucratic duplication of efforts, with attendant unnecessary expense, but rather the Legislature’s recognition of those differing responsibilities. Nonetheless, the bill passed.

In order to create a single plat review and approval entity for development in the ETJ, the law directed a county and the municipalities within its borders (as well as any other municipalities with ETJs extending into the county) to enter into a written agreement that identified the governmental entity authorized to regulate subdivision plats and approve related permits in the ETJ. For municipalities in existence on September 1, 2000, the municipality and county were directed to enter into such an agreement on or before April 1, 2002. For those municipalities incorporated after September 1, 2001, an agreement must be entered into no later than the 120th day after the date a municipality incorporates. The county is directed to adopt the agreement by order or resolution.

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There are four different options available to local governments in reaching these mandatory agreements. In the first option, the municipality may be granted exclusive authority to regulate subdivisions in the ETJ, under the authority granted in Subchapter A, Chapter 212 of the Local Government Code (which contains the general municipal authority to regulate subdivisions) and other statutes applicable to municipalities. The second option gives counties exclusive jurisdiction over subdivision regulation in the ETJ, using authority granted under Sections 232.001-232.005, Subchapter B or C, Chapter 232 of the Local Government Code, and other statutes applicable to counties. The third option allows the municipality and the county to apportion the area within the ETJ, with each local government being responsible for regulating subdivision plats within its assigned territory. Under the fourth option, the county and municipality may enter into an interlocal agreement and create a single office authorized to do the following: accept plat applications for tracts of land located in the ETJ; collect municipal and county plat application fees in a lump-sum amount, and provide a single response to plat applicants. In creating this interlocal entity, the county and the municipality may create a single set of subdivision regulations using the authority found in Chapter 212, Sections 232.001-232.005, Subchapters B and C of the Local Government Code, “and other statutes applicable to municipalities that will be enforced in the extraterritorial jurisdiction.”

This last option no doubt requires the most time, effort, and professional expertise to develop and adopt, but none of the options should be adopted without extensive study and appropriate legal and technical expertise. It behooves both county and municipal interests to carefully craft sound agreements. This may not and cannot be done unilaterally: the letter and spirit of the law require cooperation between and among the affected entities.

There is also a need for flexibility within the agreement, especially in light of shifting ETJs, and especially in and near high growth areas. As municipal boundaries shift, the agreement must be amended by both city and county to take into account commensurate shifts in the ETJ; the law requires municipalities to inform their counties of any such changes.

Agreements should pay special attention to maintenance responsibilities, especially under the first and third options presented by the bill (exclusive municipal jurisdiction over subdivision regulation or the apportionment of the ETJ by county and municipality). Although a county under this bill might relinquish its subdivision regulatory authority, unless otherwise agreed, the county will still bear the responsibility for infrastructure maintenance, until such time as a municipality annexes that land and inherits the responsibility for maintenance. A municipality’s subdivision infrastructure requirements could well exceed a county’s requirements, and include such things as guttered concrete streets, streetlights, storm water retention ponds, traffic control devices, and other elements that a county might not require and thus may not be equipped to maintain. Any commissioners court order accepting infrastructure in the ETJ should directly address maintenance responsibilities. These matters should be carefully considered and included in any agreement reached under HB 1445, and as always should be accomplished with appropriate legal and technical counsel. Failure to do so may well result in additional costs incurred by the county in the form of additional maintenance equipment, personnel, and liability.
On another important note, bear in mind that although some counties have integrated their flood plain management and on-site sewage facilities (OSSF) regulatory authorities into their subdivision regulations, these authorities and their attendant responsibilities are and remain statutorily separate. It might be fitting to include in the agreement language to this effect, so that plat applicants are fully aware early in the application process that these are indeed separate requirements and are not necessarily part of any “one-stop” shopping arrangement.

This law does not apply to all counties but exempts three classes of counties: those that contain the extraterritorial jurisdiction of a municipality with a population of 1.9 million or more; those counties within 50 miles of an international border (often referred to as colonies counties); and counties to which Subchapter C, Chapter 232 of the Local Government applies. This last group is EDAF counties, named after the Water Development Board’s Economically Distressed Areas Program. These counties contain areas that meet certain poverty and unemployment levels and are not within 50 miles of an international border.

Those interested are encouraged to review a attorney general’s opinion on this matter, JC-0518, in which the attorney general responds to this question: “whether subsections © and (d)(4) of the Local Government Code Section 242.001 [this added by HB 1445] authorize a county and a municipality to agree to a “hybrid” mix of regulations related to plats and subdivisions of land (RQ-0492JC)”. Attorney general’s opinions and requests for opinions may be viewed at www.oag.state.tx.us/opin/.

House Bill 1204

This was passed as a follow-up to HB 1445, amending Chapter 242, Local Government Code, to encourage cities and counties that had not yet met the requirements of HB 1445 to do so, with deadlines and provisions for binding arbitration.

The law requires a city and county, if they have not reached an agreement on regulation in the ETJ by January 2004, to enter into binding arbitration if the ETJ of the city extends 3.5 miles or more from the corporate boundaries of the city. It requires a county and a city, if the city ETJ extends less than 3.5 miles, to reach an agreement by January 1, 2006 or else enter into binding arbitration. If the arbitrator or arbitration panel has not reached a decision within 60 days, the arbitrator or arbitration panel must issue a interim decision to provide for a single set of regulations by a single entity, which lasts until a final decision has been made by the arbitrator or arbitration panel. The parties are responsible for the cost of arbitration. It further requires that property subject to pending approval of a plat application after September 2002 that is released from the ETJ of a city is to be subject only to county regulation of the plat.

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On the matter of arbitration, a party may not refuse to enter into arbitration and an arbitration decision is final. The county and city must agree on an individual to serve as arbitrator. If the two entities cannot agree on an arbitrator, they must each select an arbitrator; these two individuals, in turn, shall select a third arbitrator, creating an arbitration panel. This third arbitrator then presides over the panel. The arbitrator or arbitration panel must be selected no more than 30 days after the city and county are required to have an agreement. The arbitrator or the arbitration panels is to reach a decision no later than the 60th day after the date the arbitrator or arbitrator panel has been selected. If, after a good faith effort no decision has been reached, the arbitrator or the arbitration panel must continue to arbitrate the matter until a decision is reached. The costs of arbitration are to be shared equally between the county and city.

The law amends Subchapter A, Chapter 212 and Subchapter A, Chapter 232, Local Government Code, adopting chapter-wide provisions relating to the regulation of plats and subdivisions in the ETJ, stating that the authority of the local governments in their respective chapters to regulate plats and subdivisions is subject to any applicable limitation prescribed by an agreement reached under Section 242.001, Local Government Code. Changes made by HB 1204 apply only to a development agreement or subdivision plat that is filed on or after the law’s effective date (June 20, 2003).

Several attorney general’s opinions of relatively recent vintage address directly or touch on matters related to regulation of development in ETJs and may be reviewed by those interested. These include: GA-0648 (Re: Whether a municipality may adopt particular subdivision ordinances applicable to its extraterritorial jurisdiction and whether a county may do so in its unincorporated areas); GA-0230 (Re: Determining the applicable deadline for a municipality and a county to complete their certified subdivision regulation agreement as required in section 242.0015, Local Government Code); and JC-0518 (Re: Whether sections © and (d)(4) of Local Government Code 242.001 authorize a county and a municipality to agree to a ‘hybrid’ mix of regulations related to plats and subdivisions of land).

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§ 242.001. Regulation of Subdivisions in Extraterritorial Jurisdiction Generally

(a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, C, or E, Chapter 232, and a municipality that has extraterritorial jurisdiction in that county. Subsections (b)–(g) do not apply:

(1) within a county that contains extraterritorial jurisdiction of a municipality with a population of 1.9 million or more;

(2) within a county within 50 miles of an international border, or to which Subchapter C, Chapter 232, applies; or

(3) to a tract of land subject to a development agreement under Subchapter G, Chapter 212, or other provisions of this code.

(b) For an area in a municipality’s extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of the governmental entity authorized under Subsection (c) or (d) to regulate subdivisions in the area.

(c) Except as provided by Subsections (d)(3) and (4), a municipality and a county may not both regulate subdivisions and approve related permits in the extraterritorial jurisdiction of a municipality after an agreement under Subsection (d) is executed. The municipality and the county shall enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction. For a municipality in existence on September 1, 2001, the municipality and county shall enter into a written agreement under this subsection on or before April 1, 2002. For a municipality incorporated after September 1, 2001, the municipality and county shall enter into a written agreement under this subsection not later than the 120th day after the date the municipality incorporates. On reaching an agreement, the municipality and county shall certify that the agreement complies with the requirements of this chapter. The municipality and the county shall adopt the agreement by order, ordinance, or resolution. The agreement must be amended by the municipality and county if necessary to take into account an expansion or reduction in the extraterritorial jurisdiction of the municipality. The municipality shall notify the county of any expansion or reduction in the municipality’s extraterritorial jurisdiction. Any expansion or reduction in the municipality’s extraterritorial jurisdiction that affects property that is subject to a preliminary or final plat, a plat application, or an application for a related permit filed with the municipality or the county or that was previously approved under Section 212.009 or Chapter 232 does not affect any rights accrued under Chapter 245. The approval of the plat, any permit, a plat application, or an application for a related permit remains effective as provided by Chapter 245 regardless of the change in designation as extraterritorial jurisdiction of the municipality.
(d) An agreement under Subsection (c) may grant the authority to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction of a municipality as follows:

(1) the municipality may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities;

(2) the county may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other statutes applicable to counties;

(3) the municipality and the county may apportion the area within the extraterritorial jurisdiction of the municipality with the municipality regulating subdivision plats and approving related permits in the area assigned to the municipality and the county regulating subdivision plats and approving related permits in the area assigned to the county; or

(4) the municipality and the county may enter into an interlocal agreement that:

(A) establishes one office that is authorized to:

(i) accept plat applications for tracts of land located in the extraterritorial jurisdiction;

(ii) collect municipal and county plat application fees in a lump-sum amount; and

(iii) provide applicants one response indicating approval or denial of the plat application; and

(B) establishes a single set of consolidated and consistent regulations related to plats, subdivision construction plans, and subdivisions of land as authorized by Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter 232, and other statutes applicable to municipalities and counties that will be enforced in the extraterritorial jurisdiction.

(e) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by The Interlocal Cooperation Act, Chapter 791, Government Code.

(f) If a certification agreement between a county and municipality as required by Subsection (c) is not in effect on or before the applicable date prescribed by Section 242.0015(a), the municipality and the county must enter into arbitration as provided by Section 242.0015. If the arbitrator or arbitration panel, as applicable, has not reached a decision in the 60-day period as provided by Section 242.0015, the arbitrator or arbitration panel, as applicable, shall issue an interim decision regarding the regulation of plats and subdivisions and approval of related permits in the extraterritorial jurisdiction of the municipality. The interim decision shall provide for a single set of regulations and authorize a single entity to regulate plats and subdivisions. The interim decision remains in effect only until the arbitrator or arbitration panel reaches a final decision.

(g) If a regulation or agreement adopted under this section relating to plats and subdivisions of land or subdivision development establishes a plan for future roads that conflicts with a proposal or plan for future

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(1) the municipality may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities;

(2) the county may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other statutes applicable to counties;

(3) the municipality and the county may apportion the area within the extraterritorial jurisdiction of the municipality with the municipality regulating subdivision plats and approving related permits in the area assigned to the municipality and the county regulating subdivision plats and approving related permits in the area assigned to the county; or

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(A) establishes one office that is authorized to:

(i) accept plat applications for tracts of land located in the extraterritorial jurisdiction;

(ii) collect municipal and county plat application fees in a lump-sum amount; and

(iii) provide applicants one response indicating approval or denial of the plat application; and

(B) establishes a single set of consolidated and consistent regulations related to plats, subdivision construction plans, and subdivisions of land as authorized by Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter 232, and other statutes applicable to municipalities and counties that will be enforced in the extraterritorial jurisdiction.

(e) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by The Interlocal Cooperation Act, Chapter 791, Government Code.

(f) If a certified agreement between a county and municipality as required by Subsection (c) is not in effect on or before the applicable date prescribed by Section 242.0015(a), the municipality and the county must enter into arbitration as provided by Section 242.0015. If the arbitrator or arbitration panel, as applicable, has not reached a decision in the 60-day period as provided by Section 242.0015, the arbitrator or arbitration panel, as applicable, shall issue an interim decision regarding the regulation of plats and subdivisions and approval of related permits in the extraterritorial jurisdiction of the municipality. The interim decision shall provide for a single set of regulations and authorize a single entity to regulate plats and subdivisions. The interim decision remains in effect only until the arbitrator or arbitration panel reaches a final decision.

(g) If a regulation or agreement adopted under this section relating to plats and subdivisions of land or subdivision development establishes a plan for future roads that conflicts with a proposal or plan for future
roads adopted by a metropolitan planning organization, the proposal or plan of the metropolitan planning organization prevails.

(b) This subsection applies only to a county to which Subsections (b)–(g) do not apply, except that this subsection does not apply to a county subject to Section 242.002. For an area in a municipality’s extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. If a municipal regulation and a county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails. However, if one governmental entity requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. The certification must be attached to a plat required to be filed under this subsection.

(i) Property subject to pending approval of a preliminary or final plat application filed after September 1, 2002, that is released from the extraterritorial jurisdiction of a municipality shall be subject only to county approval of the plat application and related permits and county regulation of that plat. This subsection does not apply to the simultaneous exchange of extraterritorial jurisdiction between two or more municipalities or an exchange of extraterritorial jurisdiction that is contingent on the subsequent approval by the releasing municipality.


§ 242.0015. Arbitration Regarding Subdivision Regulation Agreement

(a) This section applies only to a county and a municipality that are required to make an agreement as described under Section 242.001(f). If a certified agreement between a county and a municipality with an extraterritorial jurisdiction that extends 3.5 miles or more from the corporate boundaries of the municipality is not in effect on or before January 1, 2004, the parties must arbitrate the disputed issues. If a certified agreement between a county and a municipality with an extraterritorial jurisdiction that extends less than 3.5 miles from the corporate boundaries of the municipality is not in effect on or before January 1, 2006, the parties must arbitrate the disputed issues. A party may not refuse to participate in arbitration requested under this section. An arbitration decision under this section is binding on the parties.

(b) The county and the municipality must agree on an individual to serve as arbitrator. If the county and the municipality cannot agree on an individual to serve as arbitrator, the county and the municipality shall each select an arbitrator and the arbitrators selected shall select a third arbitrator.

(c) The third arbitrator selected under Subsection (b) presides over the arbitration panel.

(d) Not later than the 30th day after the date the county and the municipality are required to have an agreement in effect under Section 242.001(f), the arbitrator or arbitration panel, as applicable, must be selected.

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(b) This subsection applies only to a county to which Subsections (b)–(g) do not apply, except that this subsection does not apply to a county subject to Section 242.002. For an area in a municipality’s extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. If a municipal regulation and a county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails. However, if one governmental entity requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. The certification must be attached to a plat required to be filed under this subsection.

(i) Property subject to pending approval of a preliminary or final plat application filed after September 1, 2002, that is released from the extraterritorial jurisdiction of a municipality shall be subject only to county approval of the plat application and related permits and county regulation of that plat. This subsection does not apply to the simultaneous exchange of extraterritorial jurisdiction between two or more municipalities or an exchange of extraterritorial jurisdiction that is contingent on the subsequent approval by the releasing municipality.


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(b) The county and the municipality must agree on an individual to serve as arbitrator. If the county and the municipality cannot agree on an individual to serve as arbitrator, the county and the municipality shall each select an arbitrator and the arbitrators selected shall select a third arbitrator.

(c) The third arbitrator selected under Subsection (b) presides over the arbitration panel.

(d) Not later than the 30th day after the date the county and the municipality are required to have an agreement in effect under Section 242.001(f), the arbitrator or arbitration panel, as applicable, must be selected.
(e) The authority of the arbitrator or arbitration panel is limited to issuing a decision relating only to the disputed issues between the county and the municipality regarding the authority of the county or municipality to regulate plats, subdivisions, or development plans.

(f) Each party is equally liable for the costs of an arbitration conducted under this section.

(g) The arbitrator or arbitration panel, as applicable, shall render a decision under this section not later than the 60th day after the date the arbitrator or arbitration panel is selected. If after a good faith effort the arbitrator or panel has not reached a decision as provided under this subsection, the arbitrator or panel shall continue to arbitrate the matter until the arbitrator or panel reaches a decision.

(h) A municipality and a county may not arbitrate the subdivision of an individual plat under this section.


§ 242.002. Regulation of Subdivisions in Populous Counties or Contiguous Counties

(a) This section applies only to a county operating under Section 232.006.

(b) For an area in a municipality’s extraterritorial jurisdiction, as defined by Section 212.001, a subdivision plat may not be filed with the county clerk without the approval of the municipality.

(c) In the extraterritorial jurisdiction of a municipality, the municipality has exclusive authority to regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities.

(d) In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by The Interlocal Cooperation Act (Article 4413/32c, Vernon’s Texas Civil Statutes).

Subchapter E: Tools for All Counties

Formerly reserved for certain urban and surrounding counties, now any county choosing to do so may adopt the provisions of Subchapter E, Chapter 232, Local Government Code.

Senates Bill 873, passed by the Legislature in 2001, represented a significant step in providing county officials in and around urban areas with some of the tools necessary to ensure that development proceeded at an orderly pace and did not impose an undue burden on county taxpayers. The law was permissive and amended Chapter 232 of the Local Government Code by adding Subchapter E, entitled “Infrastructure Planning Provisions in Certain Urban Counties”. The entire text of Chapter 232, including Subchapter E, is included in this update for your review and edification.

The subchapter then applied only to certain counties:
- those with a population of 150,000 or more and adjacent to an international border;
- those with a population of 700,000 or more;
- those counties adjacent to a county with a population of 700,000 or more and in the same metropolitan statistical area (MSA)

In 2007, the 80th Legislature struck the population bracket from Subchapter E, allowing any county in the state to adopt the various authorities found in it.

A county may, by order (and after publishing notice in a newspaper of general circulation in the county) adopt rules governing plats and the subdivision of land in the unincorporated area of the county. The statute differs significantly from previous county subdivision regulation law: it allows a county to adopt such rules “...to promote the health, safety, morals or general welfare of the county and the sale, orderly, and healthful development of the unincorporated area of the county [emphasis added].” (This language is closely modeled after the language governing a municipality’s authority in its extra-territorial jurisdiction). This is broad language and breaks new ground for county platting authority, at least for those counties that meet the criteria for exercising the authority. Although the above language is indeed broad, any rules adopted under the provisions of this subchapter should be carefully reviewed and drafted to ensure they promote the stated goals of the subchapter.

This general authority to adopt rules governing plats and subdivisions of land is tempered by explicit language preventing a county from dictating how the land might be used. Unless otherwise stated in state law, the law states that a county may not pass any rule regarding the use of any building or property for business, industrial, or other purpose. The county may not regulate the bulk, height, number, or size of buildings constructed on a piece of land, nor may a county regulate the number of residential units that can be built per acre of land. The exceptions

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from county plating authority under this statute are the same exemptions currently found in Subchapter A, Chapter 232 of the Local Government Code (see Section 232.0015).

The law provides for some specific county authorities as well, which may be adopted wholly or in part, by order and after public notification. As part of a major thoroughfare plan, a commissioners court may require that rights-of-way for streets or roads functioning as major thoroughfares be up to 120 feet wide; the county may require rights-of-way to be wider than 120 feet if such a requirement is consistent with the transportation plan of the county’s regional metropolitan planning organization. This provision underscores the need for counties to play active roles in the development of adequate transportation plans and thus further orderly growth with minimal cost to county taxpayers. A commissioners court may adopt “reasonable standards” for minimum lot frontages on existing county roads and establish similar reasonable standards for lot frontages on and near curves of roads. A commissioners court may establish building and set back lines as provided by Subchapter B of Chapter 233, Local Government Code, but without the time limitations on the building and set-back lines that would otherwise apply.

The statute also allows commissioners court to contract with a developer to construct certain public improvements (with the exception of buildings) related to a development and to do so without complying with the competitive bidding procedures found in Chapter 262 of the Local Government Code. (If a contract does not meet the requirements of this subchapter, however, Chapter 262’s competitive bidding requirements apply.) Under this type of contract, the developer would accomplish the actual construction of the public improvements, with the county contributing up to 30% of the contract price. If the contract provided for the “oversizing” of improvements, above and beyond the county’s requirements (in order to meet anticipated growth) the county would pay up to 100% of these costs. A developer participating in this type of contract must execute a performance bond in accordance with Chapter 2253 of the Government Code.

The law also extends to all counties the same authority colonias counties exercise over the connection of utilities and the plat requirements that may imposed by those colonias counties. A commissioners court may impose the utility connection requirements found in Section 232.029 of the Local Government Code. These provisions prohibit the connection of certain utilities (water, sewer, gas, and electric) unless commissioners court has reviewed and approved a plat and issued an accompanying certificate. A commissioners court may adopt the plat requirements found in Section 232.023, with certain changes. A county may also require certain limited fire suppression systems be constructed by developers to serve subdivisions not served by fire hydrants as part of a centralized water system certified by the Texas Commission on Environmental Quality as meeting minimum standards for water utility service.

As stated above, Subchapter E gives expanded authority to all Texas counties to meet the demands of rapid growth—and counties are encouraged to make use of this authority. As with

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As stated above, Subchapter E gives expanded authority to all Texas counties to meet the demands of rapid growth—and counties are encouraged to make use of this authority. As with
any authority granted for these purposes, counties choosing to make use of these tools should do so carefully and thoughtfully, with all appropriate legal and technical advice. Once any or all of the law’s provisions are implemented, we encourage you to keep in mind and communicate to us how these new tools might be broadened, improved, or refined in coming legislative sessions.
House Bill 2833, passed by the 81st Legislature (2009), became effective Sept. 1, 2009 and grants all counties (with the exception of Loving County) the permissive authority to impose residential building code standards for new residential construction in the unincorporated area by enacting Subchapter F, Chapter 233, Local Government Code. Originally bracketed for El Paso County, its scope broadened as the Legislature directed the Texas Residential Construction Commission (TRCC) to expire, via sunset legislation. The TRCC had required homebuilders registered with the agency to hire third-party inspectors to inspect the homebuilders' new homes and file these inspections with the TRCC. With TRCC set to expire, and the session struggling toward its end, the stage was set: with the support of the County Judges and Commissioners Association of Texas, the Texas Conference of Urban Counties, the Texas Association of Builders, and El Paso County, HB 2833 materially changed and passed into law.

Counties now have the authority to adopt a resolution or order requiring new residential single-family or duplex construction (and certain additions to existing houses or duplexes) to conform to a building code (either the version of the International Residential Code published as of May 1, 2008 or the version of the International Residential Code applicable in the county seat of the county). If a county chooses to require this, a builder must perform three inspections of the construction, contracting for the inspection with a licensed engineer, a registered architect, a professional inspector licensed by the Texas Real Estate Commission, a building inspector employed by a political subdivision, or other professional inspectors listed in Subchapter F, Chapter 232, Local Government Code.

In the order or resolution it adopts, a county may choose to require a builder to provide the county notice of construction projects and notice of inspections and enforce this requirement. A county may also choose not to require this notice and simply adopt the building code and inspection requirements. A county may not charge a fee for enforcing the law’s provisions and may not require prior approval before the beginning of new residential construction.

Included in this section are two sample resolutions, courtesy of the Texas Conference of Urban Counties, one which includes the notice requirements and one which does not. There are also two forms, one a “Notice of Residential Construction in Unincorporated Area” and the other a “Notice of Residential Construction Inspection Compliance in Unincorporated Area”, both courtesy of Tarrant County. The text of Subchapter F, Chapter 233, Local Government Code is also included in this section.

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AN ORDER OF THE COMMISSIONERS COURT OF _____________ COUNTY TO APPROVE AND ADOPT RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO UNINCORPORATED AREAS OF THE COUNTY AND TO PROVIDE FOR ENFORCEMENT THEREOF

WHEREAS, Subchapter F of chapter 233 of the Texas Local Government Code authorizes and allows certain counties to require residential building code standards in the unincorporated areas of those counties; and

WHEREAS, the Commissioners Court of _____________ County has determined it to be in the best interest of the County and its residents to adopt and enforce building code standards for the unincorporated areas of the County; and

WHEREAS, pursuant to Texas Local Government Code section 233.152, ____________ County is located within fifty (50) miles of an international border and/or has a population of more than 100 residents; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONER COURT OF _____________ COUNTY THAT:

1. Approval of Recitals as Findings of Fact. The foregoing recitals, having been found by the Commissioners Court to be true and correct, are hereby incorporated into this Order as findings of fact.

2. Adoption of Subchapter F, Chapter 233, Texas Local Government Code. The Commissioners Court hereby adopt and approve the Subchapter F, Chapter 233 of the Texas Local Government Code, such subchapter establishing building code standards for the unincorporated areas of the County, and certain enforcement provisions and penalties for the violation of such provisions.

3. Adoption of Notice Provisions contained in Subchapter F, Chapter 233, Texas Local Government Code. The Commissioners Court hereby elects to require all persons subject to Subchapter F, Chapter 233, Texas Local Government Code to provide the required notices set forth therein, including but not limited to those notices set forth in section 233.154(b) and section 233.154(c). Such notices shall be tendered to ______________, [designate county department or employee].
4. **Open Meeting Act.** It is hereby officially found and determined that the meeting at which this Order was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Ch. 551, Texas Government Code.

5. **Effective Date.** This Order shall be effective on the date of its adoption, as reflected below.

**BE IT SO ORDERED.**

Passed and Approved this _________ day of _______________, 2009, by a vote of ___ in favor and _________ against, ________ abstaining.

_______________ COUNTY, TEXAS

By: ______________________________

_____________________________
COUNTY JUDGE

Attest:

_____________________________
COUNTY CLERK

_____________________________
COUNTY JUDGE

Attest:

_____________________________
COUNTY CLERK
AN ORDER OF THE COMMISSIONERS COURT OF _____________ COUNTY TO APPROVE AND ADOPT RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO UNINCORPORATED AREAS OF THE COUNTY AND TO PROVIDE FOR ENFORCEMENT THEREOF

WHEREAS, Subchapter F of chapter 233 of the Texas Local Government Code authorizes and allows certain counties to approve and enforce residential building code standards in the unincorporated areas of those counties; and

WHEREAS, the Commissioners Court of _____________ County has determined it to be in the best interest of the County and its residents to adopt and enforce building code standards for the unincorporated areas of the County; and

WHEREAS, pursuant to Texas Local Government Code section 233.152, _____________ County is located within fifty (50) miles of an international border and/or has a population of more than 100 residents; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF _____________ COUNTY THAT:

1. **Approval of Recitals as Findings of Fact.** The foregoing recitals, having been found by the Commissioners Court to be true and correct, are hereby incorporated into this Order as findings of fact.

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4. **Effective Date.** This Order shall be effective on the date of its adoption, as reflected below.

STATE OF TEXAS

COUNTY OF _____________
BE IT SO ORDERED.

Passed and Approved this _________ day of ______________, 2009, by a vote of __ in favor and __________ against, ________ abstaining.

_________________ COUNTY, TEXAS

By: ______________________________

COUNTY JUDGE

Attest: ______________________________

COUNTY CLERK

_________________ COUNTY, TEXAS

By: ______________________________

COUNTY JUDGE

Attest: ______________________________

COUNTY CLERK
TARRANT COUNTY

NOTICE OF RESIDENTIAL CONSTRUCTION IN UNINCORPORATED AREA

BUILDER / CONTRACTOR INFORMATION

COMPANY NAME:__________________________________________________________

BUSINESS ADDRESS:_______________________________________________________

MAILING ADDRESS (if different from above):_______________________________

PHONE NUMBER:_____________ FAX NUMBER:__________________________

EMAIL ADDRESS:_______________________________________________________

CONTACT PERSON:______________________________________________________

PROJECT INFORMATION

TYPE OF CONSTRUCTION: (Check One)
1) New Residential Construction on a vacant lot ☐
2) Addition to an Existing Residential Unit ☐

LOCATION:
Address __________________________ zip ________________

Lot and Block # - _________________ Subdivision - _______________________

OR
Survey __________________________ Tract _____________________________

PLANNED DATE TO BEGIN CONSTRUCTION:_______________________________

RESIDENTIAL CODE TO BE USED IN CONSTRUCTION: (Check One)
1.) INTERNATIONAL RESIDENTIAL CODE – published May 1, 2008 ☐
2.) INTERNATIONAL RESIDENTIAL CODE - applicable in Fort Worth ☐

Authorized Representative Signature Printed Name

Authorized Representative Signature Printed Name
TARRANT COUNTY
NOTICE OF RESIDENTIAL CONSTRUCTION
INSPECTION COMPLIANCE
IN UNINCORPORATED AREA

INSPECTOR INFORMATION

NAME: __________________________________________

BUSINESS ADDRESS: __________________________________________

MAILING ADDRESS (if different from above): __________________________________________

PHONE NUMBER: ___________ FAX NUMBER: ___________

EMAIL ADDRESS: __________________________________________

PROFESSIONAL REGISTRATION: __________________________

PROJECT INFORMATION

DATE OF INSPECTION: __________________________

TYPE OF CONSTRUCTION: (Check One)
1) New Residential Construction on a vacant lot 
2) Addition to an Existing Residential Unit 

LOCATION:
Address - __________________________________________ zip

OR
Lot and Block # - __________________________ Subdivision - __________________________

Survey __________________________ Tract __________________________

RESIDENTIAL CODE USED IN CONSTRUCTION: (Check One)
1) INTERNATIONAL RESIDENTIAL CODE – published May 1, 2008 
2) INTERNATIONAL RESIDENTIAL CODE - applicable in Fort Worth 

TARRANT COUNTY
NOTICE OF RESIDENTIAL CONSTRUCTION
INSPECTION COMPLIANCE
IN UNINCORPORATED AREA

INSPECTOR INFORMATION

NAME: __________________________________________

BUSINESS ADDRESS: __________________________________________

MAILING ADDRESS (if different from above): __________________________________________

PHONE NUMBER: ___________ FAX NUMBER: ___________

EMAIL ADDRESS: __________________________________________

PROFESSIONAL REGISTRATION: __________________________

PROJECT INFORMATION

DATE OF INSPECTION: __________________________

TYPE OF CONSTRUCTION: (Check One)
1) New Residential Construction on a vacant lot 
2) Addition to an Existing Residential Unit 

LOCATION:
Address - __________________________________________ zip

OR
Lot and Block # - __________________________ Subdivision - __________________________

Survey __________________________ Tract __________________________

RESIDENTIAL CODE USED IN CONSTRUCTION: (Check One)
1) INTERNATIONAL RESIDENTIAL CODE – published May 1, 2008 
2) INTERNATIONAL RESIDENTIAL CODE - applicable in Fort Worth 

CONSTRUCTION PHASE: (Check One)

1) FOUNDATION STAGE (before placement of concrete) □

2) FRAMING AND MECHANICAL SYSTEMS STAGE (before covering with drywall or other interior wall covering) □

3) COMPLETION □

INSPECTION CONCLUSION:
At the indicated stage of construction the project indicated above is: (Check One)

1) IN COMPLIANCE □

2) NOT IN COMPLIANCE □

with the residential code used in construction.

COMMENTS:

SIGNATURE OF INSPECTOR:

Signature_________________________ Date_________________________
§ 233.151. Definitions

(a) In this subchapter, "new residential construction" includes:

(1) residential construction of a single-family house or duplex on a vacant lot; and

(2) construction of an addition to an existing single-family house or duplex, if the addition will increase the square footage or value of the existing residential building by more than 50 percent.

(b) The term does not include a structure that is constructed in accordance with Chapter 1201, Occupations Code, or a modular home constructed in accordance with Chapter 1202, Occupations Code.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1318 (H.B. 2633), § 1, effective September 1, 2009.

§ 233.152. Applicability

This subchapter applies only to a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

(1) is located within 50 miles of an international border; or

(2) has a population of more than 100.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1318 (H.B. 2633), § 1, effective September 1, 2009.


(a) New residential construction of a single-family house or duplex in the unincorporated area of a county to which this subchapter applies shall conform to the version of the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county.

(b) Standards required under this subchapter apply only to new residential construction that begins after September 1, 2009.

(c) If a municipality located within a county to which this subchapter applies has adopted a building code in the municipality’s extraterritorial jurisdiction, the building code adopted by the municipality controls and building code standards under this subchapter have no effect in the municipality’s extraterritorial jurisdiction.
(d) This subchapter may not be construed to:

1. require prior approval by the county before the beginning of new residential construction;
2. authorize the commissioners court of a county to adopt or enforce zoning regulations; or
3. affect the application of the provisions of Subchapter B, Chapter 232, to land development.

(e) In the event of a conflict between this subchapter and Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter 232, control.

(f) A county may not charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1318 (H.B. 2833), §1, effective September 1, 2009.

§ 233.154. Inspection and Notice Requirements

(a) A person who builds new residential construction described by Section 233.153 shall have the construction inspected to ensure building code compliance in accordance with this section as follows:

1. for new residential construction on a vacant lot, a minimum of three inspections must be performed during the construction project to ensure code compliance, as applicable, at the following stages of construction:
   
   (A) the foundation stage, before the placement of concrete;
   
   (B) the framing and mechanical systems stage, before covering with drywall or other interior wall covering; and
   
   (C) on completion of construction of the residence;

2. for new residential construction of an addition to an existing residence as described by Section 233.151(a)(2), the inspections under Subdivision (1) must be performed as necessary based on the scope of work of the construction project; and

3. for new residential construction on a vacant lot and for construction of an addition to an existing residence, the builder:

   (A) is responsible for contracting to perform the inspections required by this subsection with:

   (i) a licensed engineer;

   (ii) a registered architect;

   (iii) a professional inspector licensed by the Texas Real Estate Commission;

(d) This subchapter may not be construed to:

1. require prior approval by the county before the beginning of new residential construction;
2. authorize the commissioners court of a county to adopt or enforce zoning regulations; or
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(f) A county may not charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1318 (H.B. 2833), §1, effective September 1, 2009.
(iv) a plumbing inspector employed by a municipality and licensed by the Texas State Board of Plumbing Examiners;

(v) a building inspector employed by a political subdivision; or

(vi) an individual certified as a residential combination inspector by the International Code Council; and

(B) may use the same inspector for all the required inspections or a different inspector for each required inspection.

(b) If required by a county to which this subchapter applies, before commencing new residential construction, the builder shall provide notice to the county on a form prescribed by the county of:

(1) the location of the new residential construction;

(2) the approximate date by which the new residential construction will be commenced; and

(3) the version of the International Residential Code that will be used to construct the new residential construction before commencing construction.

(c) If required by the county, not later than the 10th day after the date of the final inspection under this section, the builder shall submit notice of the inspection stating whether or not the inspection showed compliance with the building code standards applicable to that phase of construction in a form required by the county to:

(1) the county employee, department, or agency designated by the commissioners court of the county to receive the information; and

(2) the person for whom the new residential construction is being built, if different from the builder.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1318 (H.B. 2833), § 1, effective September 1, 2009.

§ 233.155. Enforcement of Standards

If proper notice is not submitted in accordance with Sections 233.154(b) and (c), the county may take any or all of the following actions:

(1) refer the inspector to the appropriate regulatory authority for discipline;

(2) in a suit brought by the appropriate attorney representing the county in the district court, obtain appropriate injunctive relief to prevent a violation or threatened violation of a standard or notice required under this subchapter from continuing or occurring;

(3) refer the builder for prosecution under Section 233.157.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1318 (H.B. 2833), § 1, effective September 1, 2009.
§ 233.156. Existing Authority Unaffected

The authority granted by this subchapter does not affect the authority of a commissioners court to adopt an order under other law.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1318 (H.B. 2833), § 1, effective September 1, 2009.

§ 233.157. Penalty

(a) A person commits an offense if the person fails to provide proper notice in accordance with Sections 233.154(b) and (c).

(b) An offense under this section is a Class C misdemeanor.

(c) An individual who fails to provide proper notice in accordance with Sections 233.154(b) and (c) is not subject to a penalty under this subsection if:

(1) the new residential construction is built by the individual or the individual acts as the individual's own contractor; and

(2) the individual intends to use the residence as the individual's primary residence.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1318 (H.B. 2833), § 1, effective September 1, 2009.
General Phases of the Platting Process
The following is a brief examination of the plat submission and approval process, with an end goal that each county will develop its own procedural checklist. Each county is peculiar to itself, with local practices, politics, and problems setting it apart from the 253 other Texas counties. However, there do exist steps and guidelines that a variety of counties tend to follow when drafting or updating their subdivision regulations; these are integrated and summarized below, together with summaries of the applicable sections of the platting statute, with comments where appropriate. Counties should closely examine the “Related Statutes” section of this sourcebook to discover other statutes that may serve to strengthen their subdivision regulations. The editors recommend that each county determine and make public what is required of developers, and do so within the confines of properly understood and exercised statutory authority. This should only be done with the benefit of legal counsel and engineering expertise.

Although it is likely the county will incur some cost in developing thorough subdivision regulations, Joan Hardy, an experienced planner, reminded us years ago that “The subdivisions you approve today shape the character of your community forever.” Scarcity county resources expended in this area may prove to be well spent. Incomplete or inadequate subdivision regulations can and often do produce substandard development. What will be the cost of such development to future county budgets and county taxpayers?

Phases of the Process:

1. Conduct public meetings in the county to determine public opinion regarding growth issues. This will help develop a common understanding between county constituents and county officials and their staff regarding the county’s future landscape. Public consensus and support strengthens county subdivision regulation policy and provides the essential underpinning for local, regional, and state-wide support and information networks. Regulations seldom emerge from a vacuum; ideally they are the products of a commonly held vision, especially at the local level. Without forming a consensus among constituents, regulations can often become an empty shell and sub-standard; ultimately costly development will result. Developing a consensus within a group with more than one member can be a challenge, especially on a topic as complex and potentially divisive as subdivision regulation, but failure to do so can doom even the best intentions to failure.

2. The commissioners court or its designee may also first require a developer/owner to provide a preliminary plat. This preliminary plat may include topographic information, the names of the proposed development and its streets, the location of the flood plain and any proposed drainage easements, a site location map, the source or sources of utility service (including water and sewage), the acreage of lots, and the width of proposed streets’ rights-of-

The following is a brief examination of the plat submission and approval process, with an end goal that each county will develop its own procedural checklist. Each county is peculiar to itself, with local practices, politics, and problems setting it apart from the 253 other Texas counties. However, there do exist steps and guidelines that a variety of counties tend to follow when drafting or updating their subdivision regulations; these are integrated and summarized below, together with summaries of the applicable sections of the platting statute, with comments where appropriate. Counties should closely examine the “Related Statutes” section of this sourcebook to discover other statutes that may serve to strengthen their subdivision regulations. The editors recommend that each county determine and make public what is required of developers, and do so within the confines of properly understood and exercised statutory authority. This should only be done with the benefit of legal counsel and engineering expertise.

Although it is likely the county will incur some cost in developing thorough subdivision regulations, Joan Hardy, an experienced planner, reminded us years ago that “The subdivisions you approve today shape the character of your community forever.” Scarcity county resources expended in this area may prove to be well spent. Incomplete or inadequate subdivision regulations can and often do produce substandard development. What will be the cost of such development to future county budgets and county taxpayers?

Phases of the Process:

1. Conduct public meetings in the county to determine public opinion regarding growth issues. This will help develop a common understanding between county constituents and county officials and their staff regarding the county’s future landscape. Public consensus and support strengthens county subdivision regulation policy and provides the essential underpinning for local, regional, and state-wide support and information networks. Regulations seldom emerge from a vacuum; ideally they are the products of a commonly held vision, especially at the local level. Without forming a consensus among constituents, regulations can often become an empty shell and sub-standard; ultimately costly development will result. Developing a consensus within a group with more than one member can be a challenge, especially on a topic as complex and potentially divisive as subdivision regulation, but failure to do so can doom even the best intentions to failure.

2. The commissioners court or its designee may also first require a developer/owner to provide a preliminary plat. This preliminary plat may include topographic information, the names of the proposed development and its streets, the location of the flood plain and any proposed drainage easements, a site location map, the source or sources of utility service (including water and sewage), the acreage of lots, and the width of proposed streets’ rights-of-
way. These and other requirements can accomplish a number of goals early in the platting process. This information can eliminate the duplication of subdivision names and street names, assure the proper alignment of street and road names, insure that the provisions of floodplain regulations will be met in order to reduce the chances of drainage and flooding problems, assure compliance with sewage regulations, insure that the developer has applied for or will apply for the necessary permits or plan approvals, and help assure that streets or roads will be properly constructed or maintained.

A pre-application conference with the applicant, the appropriate county commissioner, and the county engineer (or the commissioners court’s designee) might prove helpful to all parties. Such meetings should expedite plat applications, reduce subdivision, site plan design, and development costs, while saving county staff time and money. Any pre-application conference is by definition informal: neither the developer, the member of the commissioners court, nor their designees are legally bound by the determinations of such a review.

3. Another important early step should be to determine whether the proposed development falls within the extraterritorial jurisdiction (ETJ) of a municipality and what agreement has been reached with the municipality regarding plat approval in the ETJ (see the section in this Sourcebook: “Plat Approval in the ETJ”).

4. Following the pre-application conference, the appropriate county commissioner (in whose precinct the development is projected to occur) should review the preliminary plat and forward any additional comments to the county engineer (or the commissioners court designee). The county engineer or his equivalent should then return these comments, together with his own, to the owner/developer, in order to provide the developer with the opportunity to address any of the preliminary plat’s deficiencies properly and in a timely manner. The goal should be to facilitate the final plat application process for the county and the developer.

5. Although the 76th Legislature’s Senate Bill 710 closed the Elgin Bank case loophole, it also placed additional responsibilities and time constraints on county action on plats. The statute directs the commissioners court or its designee to issue a written list of the documentation and other information required to make a plat application complete. A clear statement of what the county expects from a development should better enable the country to meet the various deadlines imposed by the deadlines in Chapter 232, Local Government Code. If a developer submits a final plat application but fails to include all the information and documentation required by the county on its written list of requirements, the commissioners court or its designee must inform the developer that the information is missing. The commissioners court or its designee must do so within ten business days after commissioners court receives the application. Although the statute specifically sets forth the county’s deadline for informing the developer of any missing information or documentation, the developer’s deadline for providing the missing information to the county is much less precise: “The commissioners court shall allow the
applicant to timely submit the missing documents or other information” (Chapter 232.0025(b), Local Government Code).

6. The plat application is considered complete when the developer has provided to the county all the information and documentation required by the county in its statutorily required written list. However, the acceptance of the final application by the commissioners court or its designee does not constitute approval of the submitted information.

It may be required that the final plat include with it such documentation as: any required bonds (Chapter 232.004, Local Government Code; a statement of approval of plans from all affected conservation districts, municipal utility districts, or drainage districts, a statement from the County Tax Assessor-Collector stating that all taxes are paid (including rollback taxes) and not delinquent; a certificate from the appropriate county department or commissioners court designee stating that the subdivision’s water supply and sewage systems meet with the department’s or designee’s approval; or, a letter from the appropriate water supply company stating they will guarantee water service to every lot in the subdivision. Local circumstances and needs, together with the statutory framework, should determine the final form and content of the plat application. Again, each county should develop, with the benefit of adequate legal counsel and engineering expertise, final plat application requirements and procedures.

7. The commissioners court or the court’s designee must approve or deny a completed plat application within sixty days of receiving it. If the plat application is denied, the commissioners court or the court’s designee must provide the applicant with a complete list of the reasons for the denial. The sixty day period may be extended sixty additional days if Chapter 2007, Government Code requires the county to conduct a takings impact assessment (TIA) in connection with the plat application. The period may also be extended “for a reasonable period” (Chapter 232.0025(f)(1), Local Government Code), provided the plat applicant agrees to the extension in writing and the commissioners court or its designee approves the extension. The sixty-day deadline, however, applies only to those decisions that are wholly within the control of the commissioners court or its designee.

Experienced county officials and staff members recommend the development of regional information networks with other jurisdictions and other counties. Share your knowledge and experiences with other counties; ask other counties what they might have experienced with similar problems. Other entities, especially utility providers and state regulatory agencies, should play important roles in your county’s platting procedure: alliances developed with these other jurisdictions and entities should help your county achieve its goal of responsible development, with minimal cost to county taxpayers. Elected officials and staff should create relationships with other counties, cities, utility companies, the Texas Commission on Environmental Quality, the Texas Department of Transportation, the Texas Water Development Board, special districts and others. Employ courtesy phone calls, encourage the exchange of

applicant to timely submit the missing documents or other information” (Chapter 232.0025(b), Local Government Code).

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ideas and information, offer assistance, and implement joint review meetings to further these cooperative measures.

These wise words bear repeating: the subdivisions you approve today shape the character of your community forever.
Sample Subdivision Regulations

a. Hays County
b. Hunt County
CHAPTER 701 - DEVELOPMENT REGULATIONS IN GENERAL

Sub-Chapter 1 - Preamble and Purpose

§1.01. Preamble

These Development Regulations have been adopted by Order of the Hays County Commissioners Court to provide a framework for the orderly and efficient development of rural and suburban Hays County. The various departments, agencies, entities, and employees of the County are directed to implement these Regulations and are authorized to do so as outlined herein.

§1.02. Purpose

The purpose of these regulations is to implement the powers and duties of the County authorized under the Texas Water Code, the Texas Health and Safety Code, the Texas Local Government Code and other laws, to establish the policies of the Commissioners Court and to set forth procedures to be followed in County proceedings in regulating certain activities associated with development in Hays County. The regulations should be interpreted to simplify procedure, avoid delay, save expense, and facilitate the administration and enforcement of laws and regulations by the County.

§1.03. Severability

It is hereby declared to be the express intention of the Commissioners Court of Hays County, Texas, that the appendices, Chapters, clauses, paragraphs, phrases, Sections, sentences, and Subsections of these Regulations are severable. In the event any appendix, Chapter, clause, paragraph, phrase, Section, sentence or Subsection of these Regulations shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining appendices, Chapters, clauses, paragraphs, phrases, Sections, or Subsections of these Regulations.

§1.04. Adoption by Reference

Where these Regulations adopt by reference the guidelines, laws, ordinances, policies, procedures, regulations, rules, and/or statues (hereinafter “other rules”) of another entity, the implementing County departments, employees and agents shall maintain and make available to the public a copy of any current document which contains such other rules adopted by reference, in accordance with Chapter 799.

Sub-Chapter 2 - Applicability

§2.01. General Requirements

This Chapter shall govern the general administrative procedures and review and evaluation processes to be used by the County to process and approve Applications for various types of Development Authorization and to outline public notice requirements and establish guidelines for public participation in the review and approval of Development Authorizations.
§2.02. Legal Authority

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, 234, 242, 245 and 352 and under the Texas Water Code (TWC) in Chapters 26 and 35.

§2.03. Approval Required

Except as otherwise provided herein, approval of the County is required prior to conducting any of the development activities outlined in these regulations.

§2.04. Development Authorizations within ETJ of a Municipality

Whenever any portion of an Original Tract lies within the defined extraterritorial jurisdiction (ETJ) of a municipality and is subject to both the development regulations of such municipality and Hays County, the following procedures will govern:

(A) The Applicant should obtain approval of the Application from the applicable Reviewing Authority, as determined under TLGC Chapter 242, before filing record documents with the County Clerk. As required by the Texas Property Code, the County Clerk will not accept documents for recordation unless they have been approved by the Reviewing Authority.

(B) In accordance with the TLGC, the County is authorized to enter into inter-local agreements with municipalities within the County to identify the Reviewing Authority for the area within the County that is also within that municipality’s ETJ. The County shall maintain and make available to the public a list of all municipalities within ETJ within the County and shall identify on that list the Reviewing Authority for each portion of an ETJ within the County. The following procedures shall govern the requirements for review and approval based on the identity of the Reviewing Authority:

(1) For Applications for which the County is the Reviewing Authority, Applicants shall follow the procedures outlined in these Regulations.

(2) For Applications for which a municipality is the Reviewing Authority, a person wishing to file record documents with the County Clerk for a development activity approval shall with those documents file a certificate that indicates that the development activity has either been approved by the municipality or is exempted from the municipality’s development regulations, and that all fees due to the County have been paid. The applicant bears the burden of establishing to the Commissioners Court that no municipal approval is required.

(3) For Applications for which the Reviewing Authority is a joint office established by the County and one or more authorized municipalities through inter-local agreement, the implementing departments, agencies and employees of the County shall maintain and make available to the public a current copy of the regulations and procedures for the Reviewing Authority. A person wishing to file record documents with the County Clerk for a Development Authorization shall with those documents file a certificate that indicates that the development activity has either been approved by the Reviewing Authority or is exempted from the Reviewing Authority’s development regulations, and that all fees due to the County have been paid. For a development activity that the Applicant asserts is exempt from obtaining an approval from the Reviewing Authority, the Applicant bears the burden of establishing to the Commissioners Court that no municipal approval is required.
the Applicant bears the burden of establishing to the Commissioners Court that no Reviewing Authority approval is required.

(C) Unless otherwise expressly stated in an agreement between the County and the Reviewing Authority, the County’s fees shall be assessed on all Applications for Development Authorizations for which the County is not the Reviewing Authority where any portion of the Subject Property is located outside the incorporated limits of a municipality. The County’s fees shall be separate and severable from fees assessed by other entities on an Application. A waiver of fees by the Reviewing Authority shall not constitute a waiver of fees by the County, unless the County’s fees are daily waived under these regulations.

§2.05. Affect of Regulations on Prior Development Authorizations

(A) These Regulations shall not alter the rights granted by any prior Development Authorizations issued by the County, provided that:

1. Such Development Authorization has not expired based on the provisions of the Development Authorization or the regulations or ordinances under which such Development Authorization was issued; and,

2. The activities authorized under such Development Authorization are conducted in accordance with the provisions of the Development Authorization or the regulations or ordinances under which such Development Authorization was issued.

(B) Any person who holds a Development Authorization issued by the County prior to the effective date of these regulations may petition the County to modify such prior Development Authorization to comply with any portion of these Regulations. This petition should be submitted in writing in accordance with Subchapter 15 of this Chapter.

§2.06. Affect of Regulations on Pending or Previously Filed Applications

(A) These Regulations shall not alter the rights granted by TLGC Chapter 245 to applications filed or pending before the effective date of these Regulations. Applications filed or pending before the effective date of these Regulations, and subsequent County-issued Development Authorizations related to such pending applications, have the right to be reviewed under the regulations in effect at the time the original application was filed, provided that:

1. The Application has not expired in accordance with the regulations in effect at the time of filing;

2. The Applicant timely files supplemental information requested by the Department for consideration; and,

3. The Application is not denied by the Commissioners Court.

(B) Applications pending before the effective date of these Regulations that expire at any time after the effective date of these Regulations shall be null and void and shall disqualify the Applicant, Permittee and owner of the Subject Property from the ability to submit any subsequent applications for consideration under prior regulations based on the original application date of the expired application. Expired applications shall require a complete new Application be submitted under these Regulations.

(C) Unless otherwise expressly stated in an agreement between the County and the Reviewing Authority, the County’s fees shall be assessed on all Applications for Development Authorizations for which the County is not the Reviewing Authority where any portion of the Subject Property is located outside the incorporated limits of a municipality. The County’s fees shall be separate and severable from fees assessed by other entities on an Application. A waiver of fees by the Reviewing Authority shall not constitute a waiver of fees by the County, unless the County’s fees are daily waived under these regulations.

§2.05. Affect of Regulations on Prior Development Authorizations

(A) These Regulations shall not alter the rights granted by any prior Development Authorizations issued by the County, provided that:

1. Such Development Authorization has not expired based on the provisions of the Development Authorization or the regulations or ordinances under which such Development Authorization was issued; and,

2. The activities authorized under such Development Authorization are conducted in accordance with the provisions of the Development Authorization or the regulations or ordinances under which such Development Authorization was issued.

(B) Any person who holds a Development Authorization issued by the County prior to the effective date of these regulations may petition the County to modify such prior Development Authorization to comply with any portion of these Regulations. This petition should be submitted in writing in accordance with Subchapter 15 of this Chapter.

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1. The Application has not expired in accordance with the regulations in effect at the time of filing;

2. The Applicant timely files supplemental information requested by the Department for consideration; and,

3. The Application is not denied by the Commissioners Court.

(B) Applications pending before the effective date of these Regulations that expire at any time after the effective date of these Regulations shall be null and void and shall disqualify the Applicant, Permittee and owner of the Subject Property from the ability to submit any subsequent applications for consideration under prior regulations based on the original application date of the expired application. Expired applications shall require a complete new Application be submitted under these Regulations.
Unless otherwise indicated by individual Chapters, the following terms, when used in these Regulations, shall have the meanings ascribed to them as outlined below.

**§3.02. Defined Terms Used in the Regulations**

Unless otherwise indicated by individual Chapters, the following terms, when used in these Regulations, shall have the meanings ascribed to them as outlined below.

(A) **Acre** - A unit of area equal to 43,560 square feet. When calculating the acreage of any Lot, the gross square footage within the Lot shall be used, provided any area within a private roadway easement or an easement for a Shared Access Driveway shall be excluded.

(B) **Applicant** - A person seeking approval of an application submitted pursuant to these Regulations.

(C) **Application** – A document or series of documents describing the applicant, the property, the activity for which approval is sought, how the activity satisfies the requirements of these regulations, and which is filed with the intent of obtaining approval of the application.

(D) **Calendar Day** – any and all days shown on the County’s official calendar, inclusive of holidays and weekends.

(E) **Commissioners Court** - The Commissioners Court of Hays County.

(Hays County Development Regulations Adoption Version – August 18, 2009)

**Sub-Chapter 3 - Definitions**

**§3.01. Language Construction and Meaning**

Unless otherwise indicated by individual Chapters of these Regulations, the language construction and meaning shall be that assigned in common usage at the time of their adoption.

**§2.07. Affect of Regulations on Previously Unregulated Activities**

These regulations shall be implemented as presented below for each of the following categories of previously unregulated activities:

(A) For persons, facilities and sites that commence newly regulated activities following the effective date of these Regulations, such persons, facilities and sites shall comply with the terms of these Regulations on the date such regulated activity commences.

(B) Persons, facilities and sites that have commenced newly regulated activities prior to the effective date of these Regulations shall have one hundred eighty (180) calendar days to bring such regulated activities into compliance with these Regulations.

(C) For those newly regulated activities that require approval of the County, such persons, facilities and locations that have commenced newly regulated activities prior to the effective date of these Regulations shall bring such regulated activities into compliance with these Regulations within thirty days of final action by the County on their application; provided such application was filed within one hundred eighty (180) calendar days of the effective date of these Regulations.

An Applicant with an Application pending on the effective date of these regulations may bring such regulated activities into compliance with these Regulations within thirty days of final action by the County on their application; provided such application was filed within one hundred eighty (180) calendar days of the effective date of these Regulations.

These regulations shall be implemented as presented below for each of the following categories of previously unregulated activities:

(A) For persons, facilities and sites that commence newly regulated activities following the effective date of these Regulations, such persons, facilities and sites shall comply with the terms of these Regulations on the date such regulated activity commences.

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(C) For those newly regulated activities that require approval of the County, such persons, facilities and locations that have commenced newly regulated activities prior to the effective date of these Regulations shall bring such regulated activities into compliance with these Regulations within thirty days of final action by the County on their application; provided such application was filed within one hundred eighty (180) calendar days of the effective date of these Regulations.

**Hays County Development Regulations Adoption Version – August 18, 2009**

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Unless otherwise indicated by individual Chapters, the following terms, when used in these Regulations, shall have the meanings ascribed to them as outlined below.

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(B) **Applicant** - A person seeking approval of an application submitted pursuant to these Regulations.

(C) **Application** – A document or series of documents describing the applicant, the property, the activity for which approval is sought, how the activity satisfies the requirements of these regulations, and which is filed with the intent of obtaining approval of the application.

(D) **Calendar Day** – any and all days shown on the County’s official calendar, inclusive of holidays and weekends.

(E) **Commissioners Court** - The Commissioners Court of Hays County.
Contiguous Property(ies) - land parcels, tracts or lots of real property that are immediately adjacent, connected to one another or share a common boundary, but may also include land separated only by a roadway, utility corridor or aquatic feature. Properties that are separated by a roadway, utility corridor or aquatic feature within two hundred feet are considered Contiguous Properties.

Contributing Zone of the Edwards Aquifer - The area or watershed where runoff from precipitation flows downstream to the recharge zone of the Edwards Aquifer and is generally located upstream (upgradient) and north to northwest of the recharge zone, as identified by the Texas Commission on Environmental Quality (TCEQ). It is the intent of the County that this definition conform to the corresponding definition included in the TCEQ Edwards Aquifer Program regulations, as subsequently amended. In the event an Applicant cannot determine with specificity the location of the Contributing Zone of the Edwards Aquifer, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department.

County - Hays County, Texas. Where referenced herein, the County may include either the Commissioners Court or personnel, departments or agencies of the County acting under authority delegated to such personnel, departments or agencies by the Commissioners Court.

Department - The Hays County Resource Protection, Transportation and Planning Department.

Development - All land modification activity, including the construction of buildings, roadways, paved storage areas, parking lots, storm water management facilities and other impervious structures or surfaces.

Development Agreement - A written agreement entered into between the County, the Permittee and/or the Owner(s) of the Subject Property that stipulates the conditions under which development activities on the Subject Property will be conducted. Development Agreements must have the approval of the Hays County Commissioners Court.

Development Authorization - The approval by the Hays County Commissioners Court or by departments, agents, or personnel delegated such approval authority by the Commissioners Court of one or more Applications for development activities governed by these Regulations for a specific project or tract of land, as identified in such Application(s). Development Authorizations shall include approved preliminary plans, final plats, flood hazard area permits, on-site sanitary sewer facility permits, Manufactured Home Rental Community permits, Permits for the Use of County Property or Facilities, a Land Use Location Restriction license, combinations of any such permits or Facilities, a Land Use Location Restriction license, combinations of any such permits or Facilities, a Land Use Location Restriction license, combinations of any such permits.
or licenses, and any other approvals or authorizations issued under these Regulations. This term shall also apply to Development Authorizations or equivalent approvals issued by the County prior to the effective date of these Regulations.

(O) Director - The Director of the Hays County Resource Protection, Transportation and Planning Department and any successor thereto.

(P) Dwelling Unit – One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of one household. Dwelling units may include:

1. A Single Family Residence;
2. An Apartment;
3. A Condominium Unit; or,
4. A Manufactured Home within a Manufactured Home Rental Community;

(Q) Edwards Aquifer Recharge Zone - Any area where the stratigraphic units constituting the Edwards Aquifer crop out, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Edwards Aquifer, as identified by the Texas Commission on Environmental Quality under the Edwards Aquifer Rules. It is the intent of the County that this definition conform to the corresponding definition included in the TCEQ Edwards Aquifer Program regulations, as subsequently amended. In the event an Applicant cannot determine with specificity the location of the boundary of the Edwards Aquifer Recharge Zone, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department. Any determination by the Department will affect only those Regulations and will not in any manner be binding upon the TCEQ. The Department may require the Applicant to obtain a determination from the TCEQ, and any determination by the TCEQ regarding the location of the Recharge Zone will control for purposes of these Regulations. The intent of these Regulations is to coordinate applicable state and local regulations such that the definition of the Edwards Aquifer Recharge Zone under these Regulations shall be identical with the definition found within the Edwards Aquifer Rules.

(R) Edwards Aquifer Rules - The Regulations promulgated by the Texas Commission on Environmental Quality (TCEQ) relating to the Edwards Aquifer, currently set forth in Title 30, Texas Administrative Code, Chapter 213, as amended from time to time.

(S) Endangered Species Act - the federal Endangered Species Act of 1973, including any and all subsequent amendments.

(T) Final Plat - A map of a proposed Subdivision of land prepared in a form suitable for filing of record with all necessary survey drawings, notes, information, affidavits, dedications and acceptances as required by these Regulations.

(U) Groundwater Conservation District (GCD) - A special district or other governmental entity authorized under the laws of the State of Texas with authority over groundwater resources as identified in the Texas Water Code, Chapter 36. Current Groundwater Conservation Districts in Hays County include the Barton Springs Edwards Aquifer
Local Groundwater – Water obtained by pumping or extracting water from below the surface of the ground from an Aquifer native to Hays County such as the Trinity or Edwards Aquifers.

Local Groundwater Supply System – A water system (either public or non-public) that obtains more than one-third of its total supply from Local Groundwater.

Lot - Any tract to be created by the division of the Original Tract pursuant to a proposed Subdivision Application or a Manufactured Home Rental unit or space including the remainder of the Original Tract, as well as existing platted and un-platted tracts, and exempt subdivisions.

Manufactured Home Rental Community - a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than sixty (60) months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

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Lot - Any tract to be created by the division of the Original Tract pursuant to a proposed Subdivision Application or a Manufactured Home Rental unit or space including the remainder of the Original Tract, as well as existing platted and un-platted tracts, and exempt subdivisions.

Manufactured Home Rental Community - a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than sixty (60) months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

Lot - Any tract to be created by the division of the Original Tract pursuant to a proposed Subdivision Application or a Manufactured Home Rental unit or space including the remainder of the Original Tract, as well as existing platted and un-platted tracts, and exempt subdivisions.
Development Agreements, including Conservation Development Agreements; and,

a Development Authorization under these Regulations, including the following:

incorporated limits of any municipality in the County, associated with an Application for

Any other document required under these Regulations.

Easements, including Conservation Easements;

Plats;

Deeds, including restrictive covenants;

Information included with the Application;

Regulated Roadways – Those roadways, including the associated right-of-way and
features constructed in the right-of-way, located within the County but outside the
incorporated limits of any municipality in the County, associated with an Application for
a Development Authorization under these Regulations, including the following:
(1) Existing dedicated public roadways that are improved or on which construction or tie-ins are made in association with the proposed development for which an Application is submitted under these regulations;

(2) New roadways dedicated to the public through any action of the County;

(3) New roadways dedicated to the public to be maintained by the County including roadways constructed as a part of a subdivision, Manufactured Home Rental Community or other type of Development Authorization approved under these Regulations; and,

(4) Private roadways, shared access easements, and shared access driveways not dedicated to the public and not maintained by the County, but used for emergency services access or general egress/ingress by the public as a part of any Development Authorization issued under these Regulations.

Regulations - The Hays County Development Regulations, inclusive of Chapters 701 through 799.

Reviewing Authority – An authorized municipality, Hays County, or a joint office established by one or more authorized municipalities and Hays County for the purpose of conducting reviews and issuing approvals for development activities.

Road Director - The Director of the Hays County Road Department.

Subdivision - The division of a tract of land situated within Hays County and outside the corporate limits of any municipality into two or more lots to lay out or identify: (i) a subdivision of the tract, including an addition; (ii) lots; (iii) roadways, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the roadways, alleys, squares, parks, or other parts; or (iv) division of the property for the purposes of establishing a security interest or a financial severance. It is the intent of the Commissioners Court of Hays County that the term "subdivision" be interpreted to include all divisions of the land to the fullest extent permitted under the laws of the State of Texas.

A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance, in a contract for deed or other executory contract to convey, in a lease (other than agricultural and hunting leases), or by using any other method of a conveyance of an interest in land.

A division of land shall be considered as relating to the laying out of streets, whether public or private, if:

The division occurs prior to the later to occur of: two (2) years from the date of the completion of construction of any roadway onto which the Lot has frontage or, in the case of public roadways, the expiration of the performance or maintenance bond for any such roadway;
The division of land creates one or more Lots without practical, physical vehicular access onto a Regulated Roadway or with less than fifty feet (50') of direct frontage onto a Regulated Roadway or calls for driveways onto Regulated Roadways that are spaced fewer than fifty feet (50') apart;

The division of land will affect drainage on, in or adjacent to a public roadway or any county drainage ditch, swale, culvert or other drainage facility; or

Other circumstances exist which, in the determination of the Department, cause such division of land to be related to the laying out of roadways or related to drainage for any roadway to which any Lot has access.

(VV) Subject Property – the property or tract for which an Application has been submitted under these Regulations.

(WW) Surface Water - Water from streams, rivers or lakes or other bodies of water above the surface of the ground.

(XX) TCEQ Regulated Development - Any development or construction activity that would constitute a Regulated Activity under the Texas Commission on Environmental Quality Edwards Aquifer Rules (see 30 TAC §213.3), but without regard to the aquifer over which the activity is conducted. If a Lot larger than five acres is restricted by plat note prohibiting (i) further resubdivision of the Lot into lots five acres in size or smaller and (ii) any Development other than the construction of a single-family residence or duplex and associated customary out buildings, such as a barn or garage apartment, then such Development on the Lot shall be considered excluded from the term "TCEQ Regulated Development" for purposes of these Regulations.

(YY) Wetland(s) - an area (including a swamp, marsh, bog, prairie pothole, or similar area) having a predominance of hydric soils that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support it and that under normal circumstances supports the growth and regeneration of hydrophytic vegetation. The intent of this definition is to conform to the corresponding definition included in the Texas Water Code, Chapter 11, Subchapter J, as subsequently amended.

(ZZ) Working Day – Any recognized working day that the County offices are routinely open for business, specifically excluding weekends and holidays recognized by the County.

Sub-Chapter 4 - Delegation of Authority, Appeals and Public Records

§4.01. Responsible Departments

The Commissioners Court designates the Hays County Resource Protection, Transportation and Planning Department (Department), and specifically the Director of the Department, as agent for receiving and reviewing Applications submitted under these regulations and as custodian of records for all information received, acquired or developed during the exercise of these duties. The Department may coordinate with any other County department, agency or personnel in the performance of the duties required and allowed under these regulations.

§4.02. Delegation of Authority

The Department and Director are delegated the authority by the Commissioners Court to conduct the activities required on behalf of the County under these regulations. All officials and
employees of Hays County, Texas, having duties under these Regulations are authorized to perform such duties as are required of them under said Regulations. The Commissioners Court reserves the final authority for approval or denial of any Application submitted under these regulations.

§4.03. Appeals
Persons aggrieved by an action or decision of a designated representative of the Commissioners Court may appeal any such action or decision to the Commissioners Court of Hays County, Texas. Any such appeal shall be filed with the County Clerk and with the office of the County Judge within ten days from the date the aggrieved person receives notice of such action or decision.

§4.04. Public Records
The information received, acquired or developed by the Department during the exercise of these duties is hereby designated to be of public record subject to the terms of the Texas Public Information Act (TPIA). The Department shall maintain and make available to the public all information received, acquired or developed by the Department in accordance with the TPIA, including charging any authorized fees. The Department shall maintain and make available to the public at no charge copies of these Regulations, and any and all application forms, policy documents, guidance documents, technical appendices or any other such documents that are developed by the County to implement this program, as outlined in Chapter 799. In addition to maintaining physical copies of these documents available at the Department headquarters, the Department may also make these documents available to the public using whatever means it may deem appropriate and as required by federal, state or local law, including posting on any electronic medium maintained or used by the County. The Department may also make available to the public at no charge by posting on electronic medium additional documents it receives for which it determines there is significant public interest.

Sub-Chapter 5 - Outstanding Tax Liabilities

§5.01. Applicant and Permittee Requirements
Applicants and Permittees identified on Applications submitted under these regulations shall be current on all outstanding tax liabilities with the County. This requirement is independent of whether the Subject Property included in the Application is owned by the Applicant or Permittee.

§5.02. Property Requirements
Subject Properties for which an Application is submitted under these regulations shall be current on all outstanding tax liabilities with the County. This requirement is independent of whether the Subject Property included in the Application is owned by the Applicant or Permittee.

§5.03. Documentation of Tax Status
Applications submitted under these Regulations shall provide any applicable identification numbers from the Hays Central Appraisal District (HCAD) or other duly appointed tax assessing entity for the Applicant, Permittee and the Subject Property. The Department and/or its designated representatives may independently investigate the status of payment of County taxes for the Applicant, Permittee and/or the Subject Property. The Department may require the Applicant to submit tax certificates for the Applicant, Permittee and the Subject Property.
§5.04. Suspension of Processing

The County may suspend processing of any Application submitted under these regulations if the County becomes aware that either the Applicant, the Permittee or the Subject Property are delinquent in payment of any County tax liability.

§5.05. Payment of Delinquent Taxes Prior to Issuance

Payment of any delinquent taxes (including penalties, interest, late fees, etc) on behalf of the Applicant, Permittee and/or Subject Property shall be required prior to the issuance of any Development Authorization under these Regulations. As approved or delegated by the Commissioners Court, the County may settle or adjust the required payments to satisfy this requirement.

§5.06. Disputed Tax Situations

In situations where the amount of tax owed to the County is in dispute, payment of all non-disputed amounts will be required. If the dispute is resolved while the Application is under consideration, payment of the final resolution amount shall be made prior to the County issuing the Development Authorization. Any payments made to the County in excess of the final resolution amount may be credited towards other amounts due the County (e.g. review and inspection fees, payments-in-lieu, etc) or they may be refunded, at the option of the person making the excess payment.

Sub-Chapter 6 - Fees

§6.01. Establishment and Assessment of Fees

The Commissioners Court shall establish fees for Applications, permits, inspections, reviews or other activities as required or allowed under these regulations. These fees may be amended from time to time by the Commissioners Court without amending or affecting the remainder of these Regulations. The Department shall maintain and make available to the public a list of all fees established under these Regulations. Any dispute between the Applicant and the Department regarding the basis or amount of applicable fees may be appealed by either party to the Commissioners Court.

§6.02. Payment of Fees

(A) For fee amounts estimated to exceed $100, the Applicant may elect to pay review fees to the County separately as an administrative review fee and a technical review fee. If the Applicant makes this election, the Applicant shall submit payment of the administrative review fee and shall provide an estimate of the technical review fees and any other subsequent fees. The Department shall include with their administrative completeness determination a confirmation or adjustment of the technical review fees and other fees. The amount determined by the Department shall serve as the basis for payment of the subsequent fees.

(B) All fees for Applications, permits, inspections or other fees required or allowed under these Regulations shall be made payable to the Hays County Treasurer. The fees shall be determined in U.S. dollars in accordance with the most recent fee schedule approved by the Commissioners Court. Payment may be made using any payment method established by the Commissioners Court for transacting County business.
§6.03. Waiver or Deferral of Fees
The Commissioners Court may agree to waive or defer any or all fees assessed in conjunction with these Regulations to the extent that the Commissioners Court determines that such waiver or deferral is in the public interest. The Department is authorized to waive fees assessed to Political Subdivisions (as defined in this Chapter) under these Regulations to the extent that those Political Subdivisions have or will waive similar or corresponding fees assessed to the County for similar types of approvals.

§6.04. Additional Fees for Items Returned Unpaid
The Commissioners Court may establish additional fees to be assessed in the event that any form of payment made to the County under these Regulations is returned unpaid.

§6.05. Refunds of Fees
Unless specifically noted herein, all fees paid to the County are non-refundable. The Department may refund fees under the following circumstances:

(A) Fees collected for reviews and/or inspections that are not actually conducted;
(B) Fees collected that exceed the fee offset by authorized economic incentives; or,
(C) Permit fees for any portion of a permit term where the Permittee voluntarily surrenders or revokes the permit.

Sub-Chapter 7 - General Application and Approval Procedures

§7.01. Application Forms
The Department shall develop and make available to the public forms for submitting Applications for the various types of approvals required under these regulations. These Application forms shall provide for the following information:

(A) the legal name of the Applicant;
(B) the name or title by which the Applicant will describe the application;
(C) the name, address and contact information for the Applicant’s designated contact person and any person submitting Application materials on behalf of the Applicant;
(D) the legal name, address and contact information for the Owner(s) of the Subject Property, if different from the Applicant;
(E) The legal name of the Permittee, if the Development Authorization is to be issued to a person that is not the Applicant;
(F) The HCAD Owner Identification number for the Applicant and for the Permittee, if applicable;
(G) the HCAD Property Identification number(s) for the Subject Property;
(H) the type of application being submitted;
(I) the identification of any supplemental information submitted;
(J) the County Precinct(s) in which the Subject Property is located;

Permit fees for any portion of a permit term where the Permittee voluntarily surrenders or revokes the permit.

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(B) the name or title by which the Applicant will describe the application;
(C) the name, address and contact information for the Applicant’s designated contact person and any person submitting Application materials on behalf of the Applicant;
(D) the legal name, address and contact information for the Owner(s) of the Subject Property, if different from the Applicant;
(E) The legal name of the Permittee, if the Development Authorization is to be issued to a person that is not the Applicant;
(F) The HCAD Owner Identification number for the Applicant and for the Permittee, if applicable;
(G) the HCAD Property Identification number(s) for the Subject Property;
(H) the type of application being submitted;
(I) the identification of any supplemental information submitted;
(J) the County Precinct(s) in which the Subject Property is located;
general location information for the Subject Property, including any or all of the following;

1. The “911” Street Address;
2. Geographic Coordinates;
3. Current Legal Description;
4. The Primary and Secondary Access/Frontage Roadways;
5. A published topographic map; or,
6. A County Roadway map.

certifications by the Applicant, the property Owner and the Permittee required under these regulations;

the signature of the Applicant;
documentation for tracking the Application through the County’s review process;
the number of copies of the Application and supplemental information to be submitted; and,
Any other information requested by the Department to fully evaluate the proposed development project.

The Applicant is responsible for ensuring that all applicable information regarding the Application is provided on the Application Form. Supplemental information may be attached to the Application Form but should be noted in the designated section of the Application Form.

§7.02. Representations and Certifications
By submitting an Application under these regulations, the Applicant, Permittee and/or the owner(s) of the Subject Property shall represent and certify:

A. there is no outstanding tax liability to the County;
B. the owner(s) of the Subject Property has authorized the submittal of the Application;
C. the required fees accompany the Application; and,
D. the County is authorized to review and act upon the application.

§7.03. Supplemental Information
Where required by individual Chapters, the Applicant shall submit the specified number of copies of supplemental material. Supplemental information shall conform to the following format:

A. Where possible, supplemental information should be submitted in black and white format. The submittal of color information should be coordinated in advance with the Department.
B. Supplemental information consisting primarily of text shall be submitted on 8-1/2” x 11” standard paper.
Applicants or Permittees who are not individuals ("natural persons" as defined in the Texas Business Organizations Code §1.002) must submit additional documentation in accordance with §7.05 of the TOC), the Texas Geoscience Practice Act (Chapter 1002 of the TOC), the Texas Architectural Practice Act (Chapter 1051 of the TOC), the Texas Geoscientific Practice Act (Chapter 1002 of the TOC), the Texas Sanitarian Practice Act (Chapter 1953 of the TOC) and/or the Texas Professional Land Surveying Practices Act (Chapter 1071 of the TOC).

§7.04. Application Fees
Each Application submitted under these regulations shall be accompanied by the payment of all applicable fees identified under these regulations. The Application fees shall be non-refundable and in the amounts set forth in these Regulations.

§7.05. Supplemental Requirements Based on Type of Applicant or Permittee
Applicants or Permittees who are not individuals ("natural persons" as defined in the Texas Business Organizations Code §1.002) must submit additional documentation in accordance with the following requirements:

(A) Applicants that are entities that are not natural persons shall file with the County:

(1) A certified copy of a resolution or other documentation approved by the entity’s governing body authorizing the entity to file documents pursuant to these Regulations and designating the natural person(s) authorized to execute documents on behalf of the entity;

(2) Additional documentation as may be required by the County documenting the existence of the entity and the authority of those natural persons acting on behalf of the entity.

(B) Applicants that are business entities that are not natural persons shall submit:

(C) Drawings or graphic information should be submitted using one of several commercially available sizes of standard paper:

(1) 8-1/2” x 11” standard paper (Size A)

(2) 11” x 17” standard paper (Size B)

(D) With prior coordination, Applicants may submit over-sized drawings or graphic information on any standard commercially available media, including:

(1) 11” x 17” or 18” x 24” (Sizes C or C1)

(2) 22” x 34” or 24” x 36” (Sizes D or D1)

(3) 34” x 44” or 36” x 48” (Sizes E or E1)

(E) Where required by these Regulations, certain digital data must be submitted in addition to the hard copies, including digital versions of certain drawings and graphics and geographic coordinates. The Department shall develop, update and make available to the public the digital file and geographic format requirements and transmittal or delivery procedures and formats. These shall be published as the Hays County Digital Data Submittal Standards.

(F) Where required by these Regulations or other applicable law, professional engineering, architecture, professional geoscience, professional sanitarian and professional surveying submittals shall be appropriately signed and sealed by an individual currently licensed to practice in Texas in accordance with the Texas Engineering Practice Act (Chapter 1001 of the Texas Occupations Code[TOC]), the Texas Geoscience Practice Act (Chapter 1051 of the TOC), the Texas Architectural Practice Act (Chapter 1002 of the TOC), the Texas Sanitarian Practice Act (Chapter 1953 of the TOC) and/or the Texas Professional Land Surveying Practices Act (Chapter 1071 of the TOC).
§7.06. Application Identification

Upon receipt of an Application, the Department shall assign a unique alphanumeric reference identifier to the Application. The department may elect to assign one reference identifier to a group of related Applications. The Department may also elect to utilize identifiers that allow tracking of different types of applications. The assigned reference identifier shall be utilized by the Department and the Applicant on all documents related to the Applications. All Application forms developed and utilized by the Department under these Regulations shall designate a prominent location for this reference identifier.

§7.07. Administrative Review

Before an Application filed under these regulations will be reviewed by the Department, it must be administratively complete. An administratively complete Application will contain responses to all items on the Application form, will be accompanied by the payment of all applicable fees, and will have the tax status confirmed for the Applicant, the Permittee and the Subject Property.

The Department shall conduct an initial review of the Application to determine whether it is administratively complete. If the Application is not administratively complete, the Department shall notify the Applicant of the deficiencies with the Application not later than ten (10) working days after the date the Application is received by the County. Further processing of the Application shall be suspended until these administrative deficiencies have been remedied. The Applicant shall provide a written response to each noted deficiency issued by the County, accompanied by any additional information required to respond to such deficiency. Once an Application has been determined by the Department to be administratively complete, the Department shall provide written confirmation to the Applicant, with a copy to the County Commissioner(s) in whose precinct the Subject Property is located. Administratively complete applications shall be subjected to a technical review by the Department.

§7.08. Technical Review

Before an Application filed under these regulations can be subjected to a technical review by the Department, it must be determined to be administratively complete. Before an Application filed under these regulations will be submitted to the Commissioners Court for final action, the Application shall be reviewed by the Department and determined to be technically complete. The Department shall review the Application to ensure that it complies with the technical requirements of these regulations, including any applicable variances requested. If the

(1) The name and address for service of process of the registered agent of the business entity; and,

(2) A date-stamped copy of the entity’s enabling documents filed with the Texas Secretary of State, or as otherwise existing.

(C) Applicants that are governmental entities that are requesting a waiver of fees by the County shall submit written documentation signed by the entity’s chief elected official or chief executive officer formally requesting the County to waive the applicable fees and indicating that the entity will in turn waive similar fees for the County. The Director is authorized to waive such fees upon receipt of the necessary documents.

(D) Applicants using an assumed name shall submit a date-stamped copy of the Certificate of Assumed Name.
Application is not technically complete, the Department shall notify the Applicant of the technical deficiencies with the Application. Further processing of the Application shall be suspended until these deficiencies have been remedied. The Applicant shall provide a written response to each noted deficiency issued by the County, accompanied by any additional information required to respond to such deficiency. Once an application has been determined by the Department to be technically complete, the Department shall provide written confirmation to the Applicant, with a copy to the County Commissioner(s) in whose precinct(s) the Subject Property is located. An Applicant that disagrees with the Department’s determination of technical deficiencies in the Application may petition the Department to forward the Application to the Commissioners Court without resolving the alleged deficiencies. Such requests shall be made in writing to the Department with a copy to the office of the County Judge.

§7.09. Combined Administrative and Technical Review
Applications which are routine in nature and have a limited number of technical requirements may, at the discretion of the Department, have both the administrative and technical reviews conducted together. The Department may also combine the written confirmation of administrative and technical completion required in §701.7.07 and §701.7.08.

§7.10. Expiration of Application and Suspension by Agreement
Unless an extension request is submitted to the Department in writing and such extension is subsequently granted in writing by the County, Applications for which the deficiencies are not remedied within sixty (60) calendar days following issuance of the notice of deficiencies are deemed expired and shall be returned to the Applicant. Extension requests may be granted administratively by the Department for a period of up to and inclusive of sixty (60) calendar days. Extension requests exceeding this requirement must be submitted to the Department in writing and must be subsequently approved by the Commissioners Court.

§7.11. Action on Applications Following Technical Review
For Applications that the Department determines to be technically complete, the Department shall also determine whether the Application qualifies for administrative approval in accordance with Subchapter 8 of this Chapter. Technically complete applications that qualify for administrative approval shall be issued the appropriate type of Development Authorization by the Department in accordance with Subchapter 11 of this Chapter. Applications that are technically complete, but which do not qualify for administrative approval, shall be forwarded to the Commissioners Court. Applications that the Department determines to not be technically complete, but for which the Department has received a petition to submit to the Commissioners Court, shall be forwarded to the Commissioners Court within ten (10) working days of receipt of such petition.

§7.12. Applications Forwarded to Commissioners Court
All Applications forwarded by the Department for consideration by the Commissioners Court shall be submitted to the County Clerk with a request that the item be placed on the agenda for consideration by the Commissioners Court. Along with the Application, the Department shall make a written recommendation to the Commissioners Court that the application be approved, approved with changes, or denied. The Department shall provide a copy of the Application and the Department’s recommendation to the Commissioner(s) in whose precinct(s) the Subject Property is located.

Application is not technically complete, the Department shall notify the Applicant of the technical deficiencies with the Application. Further processing of the Application shall be suspended until these deficiencies have been remedied. The Applicant shall provide a written response to each noted deficiency issued by the County, accompanied by any additional information required to respond to such deficiency. Once an application has been determined by the Department to be technically complete, the Department shall provide written confirmation to the Applicant, with a copy to the County Commissioner(s) in whose precinct(s) the Subject Property is located. An Applicant that disagrees with the Department’s determination of technical deficiencies in the Application may petition the Department to forward the Application to the Commissioners Court without resolving the alleged deficiencies. Such requests shall be made in writing to the Department with a copy to the office of the County Judge.

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§7.13. Notice of Action on Application
The Department shall notify all Applicants of the final action taken on their Application. Development Authorizations issued administratively by the Department or based on an Approval by the Commissioners Court shall comply with the notice requirements in Subchapter 11 of this Chapter. For Applications that are denied either by the Commissioners Court or administratively by the Department, the Department shall send written notice to the Applicant, the Permittee and the owner of the Subject Property providing a detailed list of reasons the application is denied. Unless otherwise required, notice of action on an Application shall be sent within ten (10) working days of said action.

§7.14. Withdrawal of Application
An Applicant may withdraw an Application by submitting a written request to the Department. Upon receipt of a written request for withdrawal of an Application, the Department shall cease processing the Application and shall confirm the withdrawal of the Application in writing, with copies forwarded to the Applicant, Permittee, owner of the Subject Property, and the Commissioner(s) in whose precinct(s) the Subject Property is located. The written confirmation shall address the disposition of fees (both refundable and non-refundable) and shall indicate that a new application, including fees, shall be required prior to conducting any of the regulated activities included the original Application.

Sub-Chapter 8 - Administrative Authorization and Variances
§8.01. Delegation of Administrative Authorizations
The Commissioners Court hereby delegates to the Department the authority to issue certain Development Authorizations administratively, subject to the following conditions:

(A) The Department may grant the following types of acknowledged administrative authorizations:

(1) Minor revisions and lot line corrections to previously platted lots that do not change the total acreage of any affected lot by more than ten percent (10%) of its original acreage;
(2) Site Development Reviews issued under Chapters 711 and 755;
(3) Utility service certifications for developments where the County has issued a Development Authorization and which are in compliance with these regulations;
(4) Flood Hazard Area Permits issued under Chapter 735 that either request no variances or request only variances for which the Department has been delegated variance approval authority;
(5) On-Site Sewage Facility (OSSF) permits issued under Chapter 741 that either request no variances or request only variances for which the Department has been delegated variance approval authority;
(6) Registrations and Minor Permits for Use of County Facilities issued under Chapter 751;
(7) Determinations of Qualification for Economic Incentives issued under Chapter 761;
(8) Modifications of existing Development Authorizations that qualify under items (1) through (7) of this Section; and,

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(7) Determinations of Qualification for Economic Incentives issued under Chapter 761;
(8) Modifications of existing Development Authorizations that qualify under items (1) through (7) of this Section; and,
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§8.02. Criteria for Variance

The Commissioners Court shall have the authority to grant variances from these Regulations when the public interest or the requirements of justice demands relaxation of the strict requirements of the Rules, or to avoid a regulatory taking. Factors to be considered in evaluating a request for variance shall include:

(A) The actual situation of the property in question in relation to neighboring or similar properties, such that no special privilege not enjoyed by other similarly situated properties may be granted;

(B) Whether strict enforcement of the Regulations would deny the Applicant the privileges or safety of similarly situated property with similarly timed development;

(C) That the granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to other property or will not prevent the orderly development of the land in the area in accordance with these Regulations;

(D) Whether there are special circumstances or conditions affecting the land or proposed development involved such that strict application of the provisions of these Regulations would deprive the applicant the reasonable use of his land and that failure to approve the variance would result in undue hardship to the applicant and/or a regulatory taking; and,

(E) Pecuniary hardship standing alone shall not be deemed to constitute undue hardship.

Transfers of existing Development Authorizations that fall into one of the following categories:

(a) Transfers involving only the elimination of one or more of multiple original Permittees, provided at least one of the original Permittees continues to holds the transferred Development Authorization.

(b) Transfers of existing Development Authorizations to legal successors recognized under law in the event of death, incapacitation, or insolvency of an original Permittee, provided that the Applicant for the transfer submits appropriate documentation that is reviewed and determined to be valid by the Hays County Criminal District Attorney’s office, or such other authorized legal representative as may designated by the Commissioners Court. Transfers resulting from a sale do not qualify for consideration as an administrative authorization, even if preceded by an otherwise qualifying event.

The Department shall provide notice to the County Commissioner(s) of all administrative approvals granted:

(1) The Department shall notify the Commissioner(s) in whose precinct(s) the Subject Property is located of the issuance of an administrative Development Authorization by forwarding a copy of the Development Authorization to the Commissioner(s) at the same time it is forwarded to the Applicant.

(2) The Department shall forward a written report to Commissioners Court identifying all administrative approvals issued during a particular calendar month. This report shall be forwarded for inclusion on the Commissioners Court agenda not later than the tenth working day following the end of the subject month.

The Department shall provide notice to the County Commissioner(s) of all administrative approvals granted:

(1) The Department shall notify the Commissioner(s) in whose precinct(s) the Subject Property is located of the issuance of an administrative Development Authorization by forwarding a copy of the Development Authorization to the Commissioner(s) at the same time it is forwarded to the Applicant.

(2) The Department shall forward a written report to Commissioners Court identifying all administrative approvals issued during a particular calendar month. This report shall be forwarded for inclusion on the Commissioners Court agenda not later than the tenth working day following the end of the subject month.

Hays County Development Regulations Adoption Version – August 18, 2009
The Department may grant the following types of administrative variances:

§8.03. Application Materials
Any person who wishes to receive a variance should apply to the Department with a list of, and a detailed justification, for each variance requested.

§8.04. Discretion to Grant Variances
The decision of the Court whether to grant or deny a variance is at its complete discretion and will be final. The Commissioners Court may delegate the responsibility for administratively approving certain variances to the Department or other County departments or personnel as the Court deems appropriate in implementing these Regulations.

§8.05. Acknowledged Administrative Variances
The Department may grant the following types of administrative variances:

(A) Variances in the design and construction associated with a Flood Hazard Area Permit (FHAP) issued under Chapters 711 and 735 that do not result in a change of classification for the FHAP.

(B) Variances in the design, construction and operation for OSSFs permitted under Chapters 711 and 741 that:
   (1) Are specifically authorized under TCEQ regulations; and,
   (2) Involve minimum lot size requirements under County regulations for existing residential OSSFs that are required to be re-certified.

(C) Variances in the design, construction and operation of a Manufactured Home Rental Community permitted under Chapters 711 and 745 that involve roadway alignments and widths.

(D) Variances in the alignment, design, and materials of construction for Minor County Facility Use permits issued under Chapters 711 and 751 that otherwise comply with those Chapters.

(E) Variances for Conservation Developments issued under Chapter 765 as follows:
   (1) Conservation space that is not a scenic and historic preservation buffer may be included in individual residential or commercial development lots;
   (2) Maximum percentage of primary conservation area that may be included as conservation space for the purposes of this ordinance may be increased by up to twenty-five (25%) when accommodating endangered species habitat;
   (3) The minimum percentage of significant and meaningful features or areas required to be included in the design of a conservation space may be reduced by up to one third of the specified requirement;
   (4) Minimum acreage for a conservation space area/lot may be reduced to no less than fifty percent (50%) for property less than twenty (20) acres in total size;
   (5) Secondary conservation areas may include recreation space up to twenty percent (20%) of the secondary conservation area portion of the conservation space requirement;
   (6) The number of dwelling units served by a joint use driveway may be increased;
(7) Scenic and historic preservation buffer sizing requirements may be reduced by up to 40% and/or the maximum percentage of conservation space that may be comprised of scenic and historic preservation may be increased to a maximum of ten percent (10%) of the conservation space requirement; or,

(8) The Department may accept a conservation space as having met the requirement for preservation of significant and/or meaningful features or areas identified in the ecological assessment if it finds it is in substantial compliance with the requirement and it fulfills the purpose and intent of this ordinance.

§8.06. Criteria for Administrative Variances
In addition to the criteria identified in §701.08.02, the Department shall make the following determination prior to granting any administrative variance authorized under §701.08.05:

(A) The variance will improve the functionality of the development on the property;

(B) The variance will improve the viability or sustainability of the conservation space for the purposes for which it is set aside; or,

(C) The variance will resolve a conflict between the provisions of this ordinance and other governmental requirements.

§8.07. Referral of Administrative Variances to Commissioners Court
The Department may, upon determining that a proposed administrative variance does not or may not meet the criteria identified in §701.08.06, defer the approval of such proposed administrative variance to the Commissioners Court.

§8.08. Appeal of Variance Decision by the Department
Any Applicant for a variance who disagrees with a decision of the Department regarding the variance may appeal the decision to the Commissioners Court. Any such appeal shall be filed with the County Clerk and with the office of the County Judge within ten days from the date a written decision is issued by the Department on the variance request.

Sub-Chapter 9 - General Public Notice Requirements

§9.01. Communication with Precinct Commissioner
Where individual Chapters of these Regulations require communication or contact with the Precinct Commissioner, the Applicant or the Applicant’s authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed development is located prior to the submission of the Application. This contact or communication shall consist of either written communication or a personal visit by the Applicant or the Applicant’s authorized agent. The Commissioner shall establish and make available to the public a copy of contact procedures for this purpose. Commissioners may delegate contact and communication responsibilities to one or more members of their staff. If the Commissioner requests a personal visit in response to receiving written communication, the Applicant or the Applicant’s authorized agent shall arrange a personal visit with the Commissioner or the Commissioner’s designee at a mutually agreeable time and place. The purpose of this personal visit shall be for the Applicant to inform the Commissioner about the project and for the Commissioner to present to the Applicant any constraints or concerns associated with the project. Documentation of contact or communication
with the Commissioner, including the personal visit, if requested, shall be furnished to the County in conjunction with an Application.

§9.02. Notice Required
Where individual Chapters of these Regulations require notice, the Applicant is responsible for accomplishing such notice regarding the Application or any action thereon, including any costs associated with such notice. Where the requirements of state or federal law dictate that the County actually accomplish such notice associated with an Application or any action thereon, the Applicant shall be responsible for the payment of fees and charges established by the Commissioners Court to cover the cost of such notice.

§9.03. Documentation
Where individual Chapters of these Regulations require notice, the Applicant is responsible for furnishing documentation to the County confirming that such notice was accomplished. Specific documentation requirements shall be established by the Department for each type of notice required under these Regulations.

§9.04. Posted Notice
Where individual Chapters of these Regulations require posted notice, the Applicant shall be required to notify the public upon the determination by the Department that an Application for a Development Authorization is Administratively Complete. This notice shall be accomplished through posting signs at the Subject Property. Where Posted Notice is required, no exemptions from these requirements shall be allowed. The following requirements apply to Posted Notice, where required:

(A) Within two (2) working days of receipt of notice from the Department that an Application filed with the County has been determined to be Administratively Complete, the Applicant shall install public notice signs on the Subject Property. Signs shall remain in place on the Subject Property until a final decision is rendered on the Application by the Commissioners Court or until such time as the Application is withdrawn, if the application is withdrawn.

(B) Signs shall be placed within twenty (20) feet of all property boundaries fronting on a public roadway. Where the length of the boundary fronting on a public roadway exceeds one thousand feet, the signs shall be spaced no further than one-thousand feet apart. At least one sign shall be placed along each public roadway fronting the property. The Applicant shall ensure that the view of the signs is not obstructed by objects on the Subject Property and that the signs are placed where there is an unobstructed view of the signs from the public roadway. Signs are not required to be placed along property boundaries that do not front on a public roadway.

(C) The signs shall contain the specific text required by the individual Chapter that includes the posted notice requirement. The Department shall develop and make available to the public standard language to be used for each type of posted notice required under these Regulations.

(D) The signs shall be a minimum size of four feet by four feet, with the bottom of the sign placed at least two feet above ground level. The background of the sign shall be white. The heading on the sign shall be red letters at least three inches high, with the remaining characters in black letters. The signs shall be placed at least two feet above ground level. The background of the sign shall be white. The heading on the sign shall be red letters at least three inches high, with the remaining
Identification of Affected Political Subdivisions

Where written notice is required to be submitted to an affected political subdivision, as part of its technical review of a completed application the Department shall identify all political subdivisions affected by the Application for which it has available records. The list of affected subdivisions affected by the Application for which it has available records. The Department shall develop and make available to the public specific signage criteria and shall make available examples of signs for each type of posted notice required under these Regulations.

(E) The signs shall be constructed of materials that are sufficiently durable to ensure the sign remains in place and legible during the entire period that posting is required.

(F) The Department may also, utilizing any procurement process authorized under State law, designate one or more approved vendors from whom Applicants may purchase signage to comply with these Regulations.

(G) Signs may also be supplied by Applicants. The Department is authorized to require review by the Department of any signs supplied by the Applicant. The Department may require that such signs supplied by the Applicant be replaced, at the Applicant’s expense, if the Department determines that the signs supplied by the Applicant do not strictly conform to the requirements of these Regulations and published Department criteria.

(H) It shall be the responsibility of the Applicant to submit documentation to the Department that the signs have been properly installed and to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The Applicant shall immediately notify the County of any missing or defective signs. It is unlawful for a person to alter any notification sign or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the Applicant shall not constitute a failure to meet notification requirements. If signs are removed, damaged or become illegible, the Applicant shall replace the signs within three (3) working days.

§9.05. Written Notice for Political Subdivisions and Contiguous Properties

Where individual Chapters of these Regulations require written notice, the Applicant shall be required to notify affected political subdivisions and the owners of Contiguous Properties through written notice. The following provisions apply to Written Notice, where required:

(A) The written notice must include a map clearly showing the boundaries and general location of the proposed development and major roadways in the vicinity.

(B) The written notice must include a general description of the nature of the proposed development, including identification of the Applicant and the Permittee and a general description of the nature of the activities for which approval is being requested.

(C) The written notice must also include any additional information required by the individual Chapter that includes the written notice requirement.

(D) The Applicant shall forward copies of any written notice to any other parties to the application, including the Permittee and/or the owners of the Subject Property.

§9.06. Identification of Affected Political Subdivisions

Where written notice is required to be submitted to an affected political subdivision, as part of its technical review of a completed application the Department shall identify all political subdivisions affected by the Application for which it has available records. The list of affected subdivisions affected by the Application for which it has available records. The Department shall develop and make available to the public specific signage criteria and shall make available examples of signs for each type of posted notice required under these Regulations.

(E) The signs shall be constructed of materials that are sufficiently durable to ensure the sign remains in place and legible during the entire period that posting is required.

(F) The Department may also, utilizing any procurement process authorized under State law, designate one or more approved vendors from whom Applicants may purchase signage to comply with these Regulations.

(G) Signs may also be supplied by Applicants. The Department is authorized to require review by the Department of any signs supplied by the Applicant. The Department may require that such signs supplied by the Applicant be replaced, at the Applicant’s expense, if the Department determines that the signs supplied by the Applicant do not strictly conform to the requirements of these Regulations and published Department criteria.

(H) It shall be the responsibility of the Applicant to submit documentation to the Department that the signs have been properly installed and to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The Applicant shall immediately notify the County of any missing or defective signs. It is unlawful for a person to alter any notification sign or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the Applicant shall not constitute a failure to meet notification requirements. If signs are removed, damaged or become illegible, the Applicant shall replace the signs within three (3) working days.
political subdivisions shall at a minimum include any political subdivision within whose boundaries the Subject Property is located. If the Subject Property is not located within the boundaries of an emergency services or management district, a school district, a water utility district, or a wastewater utility district, the nearest such district shall be included in the list of affected political subdivisions. The address for notice purposes for each affected political subdivision shall be the address furnished by the Department to the Applicant.

§9.07. Identification of Contiguous Property Owners
Where written notice is required to be submitted to owners of Contiguous Property, the applicant shall identify all owners of Contiguous Property that are not parties to the Application. The identified owners for the Contiguous Properties shall be those owners on file with the Hays Central Appraisal District (HCAD) within thirty (30) days prior to the date the Application is filed. The address of the identified owners for notice purposes shall be the address on file with the HCAD.

§9.08. Delivery of Written Notice
The following requirements apply to the delivery of Written Notice, where required:

(A) The person may deliver the written notice in person, by express courier or by depositing the notice with the United States Postal Service (USPS), postage paid. Personal delivery and delivery by express courier shall be confirmed by a written acknowledgment of receipt by the party to whom the written notice was delivered or their authorized agent. Mailed notice deposited with the USPS shall be sent certified with return receipt requested. Mailed notice may be confirmed by the receipt returned by the USPS. In instances where the person to receive Written Notice has requested that the person making the Written Notice submit such Written Notice via electronic media, the person making such Written Notice may deliver that notice via electronic media. All instances of Written Notice delivered via electronic media must be confirmed in writing or by receipt of an affirmative reply from the recipient via electronic media. Nothing in this section shall be construed to require the issuance of Written Notice via electronic media.

(B) Where written notice is required to affected political subdivisions, within ten (10) working days of receipt of notice from the Department that the Application has been determined to be Administratively Complete and the Department’s providing the Applicant with a list of affected political subdivisions, the Applicant shall provide written notice of the proposed development to each of the affected political subdivisions.

(C) Where written notice is required to owners of Contiguous Properties, within ten (10) working days of the filing of the application, the Applicant shall provide written notice of the Application to each of the owners of Contiguous Property that are not parties to the Application.

(D) Within ten days of providing such written notice under these Regulations, the Applicant shall provide copies of the notification and proof of notice delivery to the Department.

§9.09. Published Notice
Unless otherwise required under individual chapters, where published notice is required, it shall be accomplished in a newspaper of general circulation in the County at least two (2) times. For published notice of Applications, such notice shall be published within thirty (30) calendar days.
of filing the Application. For published notice of the consideration of action on any aspect of an Application, such notice shall be published during the period beginning on the 30th calendar day and ending on the 7th calendar day prior to such consideration. To document publication of the required notice, the person having such notice published shall submit an original, signed publisher’s affidavit demonstrating actual publication.

§9.10. Review of Public Notice by the County
The County may review any and all procedures used by the Applicant or others to accomplish public notice under these Regulations. The County shall require additional public notice for any public notice deemed by the County as not in compliance with these Regulations. The County may suspend the processing of any application for which the County determines that public notice was not accomplished in substantial compliance with these Regulations. The Applicant or Permittee shall be responsible for the costs of such additional public notice required as a result of failing to publish notice in substantial compliance with these Regulations.

§9.11. Additional Public Notice by the County
Where these regulations require notice, the County may accomplish additional public notice of any Application or pending action on such Application using whatever means it may deem appropriate and as required by federal, state or local law. Any such costs for this additional public notice shall be the responsibility of the County. Additional public notice by the County may include, but is not limited to, posting notice on the Commissioners Court agenda, posting notice in conjunction with other posted notices at County facilities, posting on any electronic medium maintained or used by the County, or inclusion of such notice in any announcement or communication performed by the County. Except where required by law, such additional public notice by the County will be at the discretion of the Commissioners Court. The Department shall also distribute all written and published public notice required under these Regulations to those persons on the Department maintained public distribution list in accordance with Subchapter 10 of this Chapter.

Sub-Chapter 10 - Public Participation

§10.01. Participation Invited
The Commissioners Court invites and welcomes public participation in the process of reviewing and approving development applications. In administering these regulations, the Department is directed to ensure compliance with the requirements of the Americans With Disabilities Act to ensure open public access to the process. This requirement extends to activities conducted by the Department as well as to Applicant Sponsored Public Meetings.

§10.02. Applicant Sponsored Public Meetings Encouraged
The Commissioners Court encourages all Applicants for Development Authorizations to conduct Applicant sponsored public meetings for all projects or activities likely to generate significant public interest.

§10.03. Applicant Sponsored Public Meetings Required
An Applicant sponsored public meeting is required for all Applications for Development Authorizations where:

(A) The Subject Property encompasses fifty (50) or more acres; or,
§10.04. Requirements for Applicant Sponsored Public Meetings

Where Applicant sponsored public meetings are conducted, the following requirements shall apply:

(A) Prior to conducting a public meeting, the Applicant or prospective Applicant shall prepare and file with the Department a concept plan for the proposed development.

(B) The purpose of the public meeting is for the Applicant or prospective Applicant to present the concept plan to the public and to receive public comment upon the concept plan. The intent of the public meeting is to identify issues of concern about a proposed development that may be able to be resolved prior to submission of an Application under these Regulations. Failure to resolve issues of concern prior to filing an Application does not affect the Department’s review of the Application which shall be carried out under normal procedures as required by these Regulations regardless of the outcome of the public meeting.

(C) The public meeting may be held at any time within ninety (90) calendar days in advance of filing of the Application. Advance notice of the public meeting shall be published in a newspaper of general circulation within the County at least once a week for two consecutive weeks, in accordance with the requirements for Published Notice in Chapter 701, Subchapter 9, to consist of the text of the Published Notice of the meeting and a copy of the Concept Plan to the owners of Contiguous Property, the Commissioner(s) in whose precinct(s) the Subject Property is located, and affected political subdivisions.

(D) A copy of the concept plan and the public notice shall be submitted along with all other Application materials required to be submitted for an Application under these Regulations.

§10.05. Public Hearings Required

Where required under these Regulations or otherwise under state or federal law, the County shall conduct a public hearing on an Application for a Development Authorization. An Applicant Sponsored Public Meeting held under these Regulations does not constitute a public hearing unless it is conducted in accordance with Texas State requirements for hearings by public entities.
§10.01. Notice of Evaluation Criteria
Where required or allowed under these regulations, written or published notices issued shall contain notice of the specific criteria from within these Regulations to be used by the Commissioners Court as the basis for evaluating whether to approve or deny an Application submitted under these regulations. This notice shall also indicate that the Commissioners Court may not consider factors other than the identified criteria in making their decision. The Department shall develop and make available to the public sample text to be used in conjunction with each of the types of Applications under these regulations which require or allow written or published notice. The Commissioners Court will accept comment on any matters related to the Application; however, certain matters may not be legally relevant to the Commissioners Court’s decision on the Application.

§10.02. Issued to Permittee
All Development Authorizations issued by the County shall be issued to one or more Permittees. Unless a different Permittee is specifically indicated on the Application, the Development Authorization shall be issued to the Applicant as the Permittee.

§10.03. Contiguous Property Under Multiple Ownership
The County may issue Development Authorizations for Contiguous Property under single and separate ownership or under multiple ownership. If the Development Authorization is issued for Contiguous Property under multiple ownership, all development activities taking place shall be subject to a common plan of development with common authority and common responsibility.

§10.04. Special Provisions
The County may incorporate reasonable special provisions into any Development Authorization to ensure compliance with these Regulations and protection of public health, safety, welfare and the environment. Such special provisions shall be based on any of the requirements of these Regulations or on the County’s established legal authority.

§10.05. Form of Development Authorization
All Development Authorizations issued by the County shall include:

§10.06. Notice of Evaluation Criteria
Where required or allowed under these regulations, written or published notices issued shall contain notice of the specific criteria from within these Regulations to be used by the Commissioners Court as the basis for evaluating whether to approve or deny an Application submitted under these regulations. This notice shall also indicate that the Commissioners Court may not consider factors other than the identified criteria in making their decision. The Department shall develop and make available to the public sample text to be used in conjunction with each of the types of Applications under these regulations which require or allow written or published notice. The Commissioners Court will accept comment on any matters related to the Application; however, certain matters may not be legally relevant to the Commissioners Court’s decision on the Application.

§10.07. Public Access to Applications Tracking
The Department shall maintain a list of administratively complete Applications received, Development Authorizations issued and the status of pending Applications for each calendar month. The Department shall make a hard copy of this list available for inspection at Department offices and shall distribute a copy to the offices of the County Judge and the Commissioners. This list may be distributed electronically and may also be posted on any electronic medium maintained or used by the County.

Sub-Chapter 11 - Development Authorizations

§11.01. Basis for Issuance of Development Authorizations
Development Authorizations issued by the County shall be based on the Application materials, including any representations made in the Application and supplemental information submitted by the Application. The County may incorporate into a Development Authorization by reference any information submitted in conjunction with an Application.

§11.02. Issued to Permittee
All Development Authorizations issued by the County shall be issued to one or more Permittees. Unless a different Permittee is specifically indicated on the Application, the Development Authorization shall be issued to the Applicant as the Permittee.

§11.03. Contiguous Property Under Multiple Ownership
The County may issue Development Authorizations for Contiguous Property under single and separate ownership or under multiple ownership. If the Development Authorization is issued for Contiguous Property under multiple ownership, all development activities taking place shall be subject to a common plan of development with common authority and common responsibility.

The County may incorporate reasonable special provisions into any Development Authorization to ensure compliance with these Regulations and protection of public health, safety, welfare and the environment. Such special provisions shall be based on any of the requirements of these Regulations or on the County’s established legal authority.

§11.05. Form of Development Authorization
All Development Authorizations issued by the County shall include:

§11.06. Notice of Evaluation Criteria
Where required or allowed under these regulations, written or published notices issued shall contain notice of the specific criteria from within these Regulations to be used by the Commissioners Court as the basis for evaluating whether to approve or deny an Application submitted under these regulations. This notice shall also indicate that the Commissioners Court may not consider factors other than the identified criteria in making their decision. The Department shall develop and make available to the public sample text to be used in conjunction with each of the types of Applications under these regulations which require or allow written or published notice. The Commissioners Court will accept comment on any matters related to the Application; however, certain matters may not be legally relevant to the Commissioners Court’s decision on the Application.

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The Department shall maintain a list of administratively complete Applications received, Development Authorizations issued and the status of pending Applications for each calendar month. The Department shall make a hard copy of this list available for inspection at Department offices and shall distribute a copy to the offices of the County Judge and the Commissioners. This list may be distributed electronically and may also be posted on any electronic medium maintained or used by the County.

Sub-Chapter 11 - Development Authorizations

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§11.02. Issued to Permittee
All Development Authorizations issued by the County shall be issued to one or more Permittees. Unless a different Permittee is specifically indicated on the Application, the Development Authorization shall be issued to the Applicant as the Permittee.

§11.03. Contiguous Property Under Multiple Ownership
The County may issue Development Authorizations for Contiguous Property under single and separate ownership or under multiple ownership. If the Development Authorization is issued for Contiguous Property under multiple ownership, all development activities taking place shall be subject to a common plan of development with common authority and common responsibility.

The County may incorporate reasonable special provisions into any Development Authorization to ensure compliance with these Regulations and protection of public health, safety, welfare and the environment. Such special provisions shall be based on any of the requirements of these Regulations or on the County’s established legal authority.

§11.05. Form of Development Authorization
All Development Authorizations issued by the County shall include:
§11.06. Effective Dates and Expiration

Development Authorizations shall identify the date on which they are effective. In the absence of an identified effective date, the effective date shall be the date on which the Development Authorization is issued by the County. Development Authorizations issued by the County may be subject to expiration as outlined in the individual Chapter(s) under which said Development Authorizations are issued. Expired Development Authorizations are null and void and require a new Application, including application fees.

§11.07. Dedication to the Public

Where dedication to the public is required under these regulations, such dedication shall be made through appropriate legal instruments. Such dedication shall be made to the public with the County as custodian of all titles, privileges and other legal rights conveyed through such dedication. In the case of easements dedicated to the public, the Commissioners Court may designate another Political Subdivision or private not-for-profit entity as custodian of the County’s rights under said easement. No dedication shall be effective until the record document is filed with the County Clerk in the Official County Records. Dedications to the public may be accomplished through any legal means recognized by the County, including:

(A) Filing a written deed in the Official County Records that conveys the fee simple interest to the County in the item being dedicated;
(B) An easement document filed in the Official County Records that conveys a perpetual right-of-way easement to the County in the item being dedicated;
(C) Designation of rights-of-way, easements, open space, parkland, and other public dedications on a final plat, whether through indication on the plat or reference in a plat note;
(D) Designation of rights-of-way, easements, open space, parkland, and other public dedications on a recorded conveyance instrument for the registration of an exempt subdivision in accordance with Chapter 705 of these Regulations; and,
(E) An order issued by a court of competent jurisdiction subsequently filed in the Official County Records.
§11.08. General Provisions Incorporated into Development Authorizations

The Department shall incorporate the following general provisions into all Development Authorizations issued:

(A) Responsibility of the Applicant and Permittee

By submitting the Application, the Applicant and the designated Permittee agree to be bound by the Regulations in effect at the time the Application was submitted, including any representations, covenants, restrictions or agreements included in the Application and any special provisions incorporated by the County.

(B) Responsibility for Permitted Activities

Once the Development Authorization has been issued, the Permittee shall be responsible to the County for complying with the terms of the Development Authorization, including any representations, covenants, restrictions or agreements included in the Application and any special provisions incorporated by the County. Failure to comply with the terms of an issued Development Authorization may subject the Permittee to enforcement.

(C) Compliance with Other Federal, State and Local Laws and Regulations

Once the Development Authorization has been issued, the Permittee shall be responsible for complying with the terms of other applicable federal, state and local laws and regulations applicable to the authorized activities, and any approved management plans implemented by local governments in the County based on such federal, state or local laws and regulations.

(D) Responsibility for Improvements

Once approved and constructed, the Permittee holds title to and is responsible for all improvements associated with the Development Authorization except those specifically dedicated to the public in the Application as authorized under these Regulations. The Permittee is responsible for all costs associated with the installation of said improvements, including operation, maintenance, upkeep, repair and replacement, to ensure compliance with the terms of the Development Authorization. With the Agreement of the Permittee, the County may assign responsibility for publicly dedicated improvements to the Permittee through the Development Authorization.

(E) Hold Harmless

Once approved, the Permittee, Applicant, and the Owner of the Subject Property shall hold harmless the County and its duly appointed departments, agents and employees against any action for personal injury or property damage sustained by reason of the exercise of the activities authorized in the Development Authorization.

§11.09. Notice of Other Regulatory Programs

To the extent that the County is aware of other applicable regulatory programs, the County may incorporate into a published Application Form or a Development Authorization notices of the Permittee’s responsibility to comply with such other regulatory programs. The County may require additional information to be submitted either in conjunction with the Application or following the issuance of a Development Authorization to document compliance with these other regulatory programs. Any obligation to submit additional information following the issuance of any other regulatory programs is responsible for all costs associated with the installation of such improvements, including operation, maintenance, upkeep, repair and replacement, to ensure compliance with the terms of the Development Authorization. With the Agreement of the Permittee, the County may assign responsibility for publicly dedicated improvements to the Permittee through the Development Authorization.

(E) Hold Harmless

Once approved, the Permittee, Applicant, and the Owner of the Subject Property shall hold harmless the County and its duly appointed departments, agents and employees against any action for personal injury or property damage sustained by reason of the exercise of the activities authorized in the Development Authorization.
a Development Authorization must be included as a special provision in such Development Authorization.

§11.10. Notice of Issuance of Development Authorization

When issuing a Development Authorization for which the Applicant and/or the owner of the Subject Property is not the Permittee, the Department shall forward copies of the Development Authorization to the Permittee. The Department shall also forward copies of the Development Authorization to any public entity with overlapping jurisdiction on the Subject Property that has requested notice and to any person requesting to be on the Department’s public notice distribution list.

Sub-Chapter 12 - Filing Record Documents with the County Clerk

§12.01. Requirement to File

Where required by one or more individual Chapters of these Regulations, the Applicant shall file copies of the required record documents with the County Clerk for inclusion in the Official County Records.

§12.02. Submission of Record Documents to the Department

Following issuance of a Development Authorization which requires filing of the record documents, the Applicant shall present such record documents to the Department for final review and delivery to the County Judge, or the County Judge’s designated representative, for execution. Once these documents have been executed, the Department shall notify the Applicant that those documents are ready for filing with the County Clerk.

§12.03. Filing with the County Clerk

Final record documents that are required to be filed in the Official County Records and that have been executed by the County Judge or the County Judge’s designated representative may be presented to the County Clerk for filing in the County plat records, in accordance with the Texas Property Code, Chapter 12. The Applicant is solely responsible for the filing of record documents with the County Clerk, including any applicable fees. As required by the Texas Property Code, the County Clerk will not accept documents for recordation unless they have been approved by the Reviewing Authority.

Sub-Chapter 13 - Enforcement and Penalties

§13.01. Inspection

The Department may routinely inspect facilities considered to be a Regulated Land Use to assure continued compliance with these rules.

§13.02. Offenses

A person commits an offense if the person intentionally or knowingly makes or causes to be made a false material statement, representation, or certification in, or omits or causes to be omitted material information from, an application, notice, record, report, plan, or other document, filed or required to be maintained under these Regulations. A person commits an offense if the person knowingly or intentionally violates a requirement of these Regulations or the requirements or provisions of any appendices attached to these Regulations, or any provision of a Development Authorization issued by the County. A separate offense occurs under this

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Chapter on each day on which all of the elements of the offense exist. A separate offense occurs for each separate provision of the Regulations violated.

§13.03. Category of Offense

Unless otherwise stated herein, an offense under these Regulations is a Class B misdemeanor punishable by fine or imprisonment or both.

§13.04. Fines and Penalties

These Regulations hereby incorporate by reference all authority granted to the County or the County Commissioners Court by applicable penalty provisions of any and all relevant statutes and regulations, including, but not limited to, those found in the Texas Health and Safety Code, the Texas Local Government Code, the Texas Water Code, and the regulations of any state or federal agency for whom the County is the implementing entity.

§13.05. Enforcement of Covenants and Representations

Development Authorizations may be issued by the County based on covenants and representations made by the Applicant. Any special provisions or restrictions incorporated into the Development Authorization are considered an integral part of such Development Authorization and are subject to all of the enforcement procedures available under these Regulations. Compliance with provisions or restrictions incorporated into Development Authorizations based on covenants and representations in the Application is generally the responsibility of the Applicant, the Permittee and other persons holding an interest in the Subject Property. All such covenants and representations (e.g. Plat notes, deed restrictions, etc.) shall reflect that the County may enforce any such special provisions or restrictions incorporated in order to qualify for a Development Authorization issued under these Regulations. The County’s enforcement of these special provisions or restrictions is limited to those that are used as the basis for issuing a Development Authorization, and shall be within those items to only those measures required to achieve compliance with these Regulations. Plat notes and deed restrictions may be enforced by any person who is considered to be benefited by the deed restriction, as authorized under state law. Moreover, the Commissioners Court shall have the right and authority through appropriate legal procedures to prohibit the construction or connection of utilities or issuing of permits if the covenants and representations have been violated. All requests to the County to remove or alter a special provision or restriction previously incorporated into a Development Authorization will be considered a modification subject to Section 701.15.03 and will require consideration by the Commissioners Court.

§13.06. Stop-Work Orders by the Department

As a part of its routine duties, the Department may issue stop-work orders for activities being conducted pursuant to a Development Authorization issued by the County, if a representative of the Department has confirmed that the activities violate or are in danger of violating a Development Authorization, a Development Agreement, these Regulations, or the requirements of other applicable entities with jurisdiction over the project that have been incorporated by reference. Orders issued by the Department under this authority may be provided verbally, but must be confirmed by Written Notice, provided to the Permittee and the Owner of the Subject Property, in accordance with the requirements of §701.9.08. Notification of stop-work orders shall be provided to the County Judge and the Commissioner(s) in whose precinct the Subject Property is located. Stop-work orders may be appealed to the Commissioners Court based on a
written request of the Permittee or the Owner of the Subject Property. Violations that result in stop-work orders are subject to any enforcement action authorized under applicable law, including civil or criminal penalties or fines.

§13.07. Enforcement Actions

(A) At the request of the Commissioners Court, the Hays County Criminal District Attorney’s office, or such other authorized legal representative as may designated by the Commissioners Court may file an action in a court of competent jurisdiction to:

(1) Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations;

(2) Seek civil or criminal penalties or fines as provided by law;

(3) Take all actions or seek any penalty authorized under law, including the penalties and enforcement provisions incorporated by reference from the Texas Health and Safety Code, the Texas Local Government Code, the Texas Water Code and the regulations of any state or federal agency for whom the County is the implementing entity; and,

(4) Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by the Commissioners Court under these Regulations.

(B) Whenever it appears that a violation of any of these rules has occurred or is occurring, any person is entitled to bring a suit for injunctive relief against the person who committed, is committing, or is threatening to commit the violation. Such civil suits, excluding criminal proceedings, may not be instituted by the County unless the Commissioners Court has authorized the institution of the suit.

(C) Prosecution of a suit under these Regulations may be exercised by any court of competent jurisdiction. Venue for prosecution of a suit under these Regulations is proper in Hays County, Texas.

Sub-Chapter 14 - Conflicts of Interest

§14.01. Requirement to File

If a member of the Commissioners Court is the Applicant, the Permittee or has a “substantial interest” (as that term is defined in TLGC Chapter 232) in any property associated with an Application for Development Authorization, that member shall file, before a vote or decision regarding the approval of the Application, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter on behalf of the County. The affidavit must be filed with the County Clerk in the Official County Records.

§14.02. Failure to File Is An Offense

A member of the Commissioners Court commits an offense if the member violates Section 701.14.01. An offense under this Section is a Class A misdemeanor.
Sub-Chapter 15 - Termination and Modification of Development Authorizations

§15.01. Transfer of Development Authorization
The County may transfer a Development Authorization from one or more existing Permittees to one or more new Permittees. Transfers of Development Authorizations shall be processed as Modifications in accordance with §701.15.03.

§15.02. Suspension, Termination or Revocation by County
The County may suspend, terminate or revoke Development Authorization under the following conditions:

(A) The Commissioners Court may suspend, terminate or revoke any Development Authorization which the County determines was obtained under false pretenses, including intentionally or knowingly making or causing to be made a false material statement, representation, or certification in, or omitting or causing to be omitted material information from an Application, notice, record, report, plan, or other document, filed or required under these Regulations.

(B) Prior to suspending, terminating, or revoking a Development Authorization, the County shall provide the Permittee with written notice, delivered in accordance with §701.9.08, that the Commissioners Court will consider the suspension, termination, or revocation of the Development Authorization. Such written notice shall be transmitted to the Permittee at least ten (10) calendar days prior to Commissioners Court consideration.

(C) In instances where the Commissioners Court determines that any such Development Authorization obtained under false pretenses poses a significant or imminent threat to public safety, human health, or the environment, the County may suspend, terminate or revoke such Development Authorization without prior notice. In such instance, the County Judge, the County Clerk, or the County Judge’s authorized representative shall furnish written notice to the Permittee within three (3) working days of the suspension, termination or revocation.

§15.03. Modification of Development Authorizations
A Permittee that holds a valid Development Authorization issued by the County may petition the County to modify the terms of such Development Authorization. This petition must be submitted in writing to the Department and shall outline the specific modifications requested and shall include any supplemental information necessary for the Department to determine that the requested modification is in compliance with these Regulations. Any such modification that qualifies for an administrative approval under Subchapter 8 of this Chapter, may be issued by the Department, in accordance with the procedures outlined in Subchapter 8 of this Chapter.

Petitions for modification that do not qualify for an administrative approval shall be reviewed by the Department, in accordance with the procedures outlined in §701.7.06 through §701.7.09, and shall be submitted to the Commissioners Court for Consideration.

§15.04. Notice for Transfer or Modification of Development Authorizations
Any transfer or modification of a development authorization shall be subject to the same public notice provisions in place for the initial application.
**Sub-Chapter 16 - Coordination with “911” Addressing System**

This subchapter shall govern the coordination required with the “911” Addressing System prior to issuance of a Development Authorization by the County.

§16.01. **Communication with County “911” Coordinator**

Prior to submitting an Application, the Applicant or the Applicant’s authorized agent is required to contact the County “911” Coordinator to confirm the suitability of the naming and designation of proposed roadways and to establish procedures for identifying the “911” addresses for the subdivision. Applications for subdivisions must confirm the suitability of the name and designations in conjunction with the Preliminary Plan.

§16.02. **Additional Coordination**

The County “911” Coordinator may require the Applicant to coordinate “911” addressing information with the Hays County Sheriff, municipal police and fire departments, emergency services districts (ESDs) and any other emergency response agencies authorized to operate in the County whose response might be requested during an emergency.

§16.03. **Approval Required**

Prior to the issuance of a Development Authorization by the County, the Applicant shall submit evidence of approval by the County “911” Coordinator for the following:

(A) The proposed names or designations for new roadways, shared access easements or shared access driveways associated with any Application to the County for a Development Authorization. The County “911” Coordinator is hereby authorized to withhold approval of names or designations that the coordinator determines are very similar to existing names or designations or which may otherwise contribute to confusion in names or designations in a way that may hinder emergency response.

(B) If “911” addresses have not previously been established for the proposed development, in conjunction with the final Development Authorization, the County shall establish a “911” address for each lot or component of the development served by a Regulated Roadway, shared access easement or shared access driveway associated with that development. If the development plan includes multiple habitable structures located on the same lot (e.g. a multi-unit residential housing unit, a Manufactured Home Rental Community, a multi-unit commercial development, etc.), a “911” address shall be established for each habitable structure. The “911” addresses shall be established by the County “911” Coordinator.
CHAPTER 702 - RESERVED

CHAPTER 702 - RESERVED
CHAPTER 704 - RESERVED

CHAPTER 704 - RESERVED
CHAPTER 705 - SUBDIVISION AND PLATTING OF PROPERTY

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern activities associated with the subdivision of property within the County, including construction of infrastructure and utilities, the construction, dedication of features to the County for maintenance and operation, and documenting and recording the requirements for these activities based on the approval of the County.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, 234, 242 and 352 and under the Texas Water Code in Chapters 26 and 35.

§1.03. Approval Required Prior to Construction
Approval of the Commissioners Court is required prior to the construction and development of a subdivision, unless excluded or exempted under State law or as exempted below.

§1.04. Approval Required Prior to Furnishing Utility Service
A utility may not provide utility services, including water, sewer, gas, and electric services to a subdivision development until the Final Plat has been granted by the Commissioners Court. Prior to furnishing utility service, the prospective utility provider shall apply for a certification from the Department stating that the Final Plat has been reviewed and approved by the Commissioners Court.

Sub-Chapter 2 - General Subdivision Requirements

§2.01. General Requirements
Any person who subdivides a tract of land shall:
(A) Comply in all respects with these Regulations; and,
(B) Prepare and submit to the Commissioners Court an Application for approval or registration of the proposed Subdivision in accordance with the terms and procedures set forth in this Chapter.

§2.02. Subdivision Approval Process
No Subdivision shall be approved until the Applicant has satisfied each of the following steps in the order indicated:
(A) Approval of Preliminary Plan by the Commissioners Court.
(B) Approval of Final Plat by the Commissioners Court.
(C) Filing of Record Plat with the County Clerk, to be recorded with the County Clerk in the Official County Records.
§3.01. Exempted Subdivisions

The following subdivisions of property are exempted from the subdivision and platting requirements, except for the requirement to register the subdivision, as outlined below:

(A) Exemptions allowed as defined by Texas Local Government Code §232.0015.

(B) Subdivisions made for the purpose of financial severance to establish a security interest in any portion less than the entirety of the property, which, if the security interest were exercised would sever the property into separate ownership.

Exempted subdivisions registered with the County must provide direct access to a regulated roadway. This requirement to provide direct access shall not be construed to require formal subdivision where TLGC §232.0015 does not require formal subdivision.

§3.02. Registration

(A) All exempt subdivisions shall register the division with the County Clerk and submit the following to the Department:

(1) A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached thereto;

(2) An executed registration Application in the form promulgated by the Department which shall require the Owner to acknowledge that all Lots remain subject to the other development regulations of the County; and,

(3) An affidavit stating that the owner/subdivider of the land acknowledges that any change in the exemption status will require the property to be formally subdivided under this Chapter.

(B) In addition to the items required by (A), above, a person whose subdivision is exempt from the subdivision and platting requirements of these Regulations under the Texas Local Government Code §232.0015 shall comply with the following additional requirements:

(1) The person shall file with the County Clerk and submit to the Department a survey or sketch (which may be on tax parcel maps or other form approved by the Department) showing the boundaries of the Lots, adjacent roads and adjacent property owners; and,

(2) The person shall submit to the Department an affidavit stating that the person will provide a copy of the affidavit required under 705.3.02(A)(3) to all persons to whom they transfer a subsequent interest in any portion of the subdivided property, whether through gift, sale or other means of transfer.

(C) A person whose subdivision is exempt from the subdivision and platting requirements of these Regulations as a Financial Severance subdivision shall comply with the following additional requirements:

(1) The person establishing a financial severance boundary(ies) shall file with the County Clerk a survey or sketch showing the location within the property of the financial severance boundary(ies), and indicating any portion(s) of the property subject to a security interest; and,
(2) The person establishing a financial severance boundary(ies) shall submit to the Department an affidavit stating that the person will provide a copy of the affidavit required under 705.3.02(A)(3) to all persons to whom they grant a security interest in any portion of the property.

§3.03. Acknowledgement of Registration

Upon the receipt of a Registration for an Exempt subdivision, the Department shall issue a written acknowledgement to the person filing the registration. This written acknowledgement shall reference the acknowledgements made on the registration form and the affidavit required under 705.3.02, and shall indicate that any changes in the exemption status will require review by the County and may require that the property to be formally subdivided under this Chapter.

Sub-Chapter 4 - Application Procedures

§4.01. General Requirements and Application Procedures

Applications to the Commissioners Court for platting and subdividing property pursuant to these Regulations is subject to the general requirements and Application procedures set forth in Chapter 701 of these regulations.

§4.02. Fees

Fees for Applications for Subdivisions shall be based on the number of lots and shall be as established by the Commissioners Court. Application Fees may include a minimum review fee in addition to the fee per lot.

§4.03. Additional Application Items

In addition to the items required to be submitted in accordance with Chapter 701, Subchapter 7, all Applications to the County for platting and subdividing property pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the Department and shall include:

(A) the name of the proposed Subdivision;
(B) Information on the precise location of the Subject Property to include:
   (1) The “911” Street Address for the main entrance, if established;
   (2) The current legal description;
   (3) The Primary and any secondary existing public roadways which abut the Subject Property or will be used for access to the proposed development; and,
   (4) A set of Geographic Coordinates for the main entrance to the subdivision from an existing public roadway.
(C) the size and location of the Original Tract or, if a reference identifier has previously been assigned, the reference identifier of the Subdivision application.
(D) a detailed description of the specific activities proposed for the Subject Property.
(E) Any technical representatives or consultants responsible for preparation of the Application or Supplemental Information (e.g. professional engineers, professional

(2) The person establishing a financial severance boundary(ies) shall submit to the Department an affidavit stating that the person will provide a copy of the affidavit required under 705.3.02(A)(3) to all persons to whom they grant a security interest in any portion of the property.

§3.03. Acknowledgement of Registration

Upon the receipt of a Registration for an Exempt subdivision, the Department shall issue a written acknowledgement to the person filing the registration. This written acknowledgement shall reference the acknowledgements made on the registration form and the affidavit required under 705.3.02, and shall indicate that any changes in the exemption status will require review by the County and may require that the property to be formally subdivided under this Chapter.

Sub-Chapter 4 - Application Procedures

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Fees for Applications for Subdivisions shall be based on the number of lots and shall be as established by the Commissioners Court. Application Fees may include a minimum review fee in addition to the fee per lot.

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   (1) The “911” Street Address for the main entrance, if established;
   (2) The current legal description;
   (3) The Primary and any secondary existing public roadways which abut the Subject Property or will be used for access to the proposed development; and,
   (4) A set of Geographic Coordinates for the main entrance to the subdivision from an existing public roadway.
(C) the size and location of the Original Tract or, if a reference identifier has previously been assigned, the reference identifier of the Subdivision application.
(D) a detailed description of the specific activities proposed for the Subject Property.
(E) Any technical representatives or consultants responsible for preparation of the Application or Supplemental Information (e.g. professional engineers, professional
§4.04. Communication with Precinct Commissioner

The Applicant or the Applicant’s authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed Subdivision is located prior to the submission of the Application.

§4.05. Supplemental Information

In addition to the items required to be submitted with the Application in accordance with Chapter 701 and Section §705.4.03, each Application for a Preliminary Plan or a Final Plat shall include the following:

(A) Property location map(s), which utilizes at least one of the following base maps:
   (1) A topographic map as published by the U.S. Geological Survey (USGS), or an equivalent map from another source, indicating the location of the Subject Property;
   (2) A County Roadway map as published by the Texas Department of Transportation indicating the location of the Subject Property; and/or,
   (3) A County Roadway map from another source that accurately depicts the location of the Subject Property.

(B) A copy of the deed or deeds documenting current ownership of the Subject Property.

(C) Engineering, Surveying and other drawings and documents containing the specific information required for either a Preliminary Plan or a Final Plat.

(D) All other documents or reports required pursuant to these Regulations and any associated bonds or letters of credit.

(E) Any subdivision proposal that is not exempt according to Chapter 705, Subchapter 3 shall be required to submit digital files for all drawings and graphics of the subdivision, as required under Chapter 701, Subchapter 7.

§4.06. Application Review Periods

The Department review period for an application for a Preliminary Plan or Final Plat shall begin on the first working day after a completed Application is submitted and shall end on the first Wednesday following the expiration of fifteen (15) working days thereafter.

(A) An application for a Preliminary Plan or Final Plat shall be deemed to be administratively complete for purposes of this Chapter when all of the materials required by these Regulations are delivered to the Department together with:
   (1) for Preliminary Plans, those items required in Subchapter 5, 6 and 7 of this Chapter, and;
   (2) for Final Plats, those items required in Subchapters 5 and 8 of this Chapter.

(B) Final action, including resolution of all appeals, of either a Preliminary Plan or Final Plat shall be no later than sixty (60) calendar days from the date of the administratively complete application submittal, subject to extensions as allowed by LGC §232.0025(f).
§4.07. Technical Review Procedure

Upon receipt of a completed application, the Department shall conduct a technical review of the Application and make a recommendation to the Commissioners Court as to whether the application is in compliance with these Regulations.

(A) In the event the Department determines that the Application is not complete, then the Department shall provide the Applicant with written comments detailing the outstanding or deficient items.

(B) Upon receipt of the Department's written comments, the Applicant shall submit to the Department additional information or a revision to the Application, together with a written response to each comment of the Department. The Applicant may request that the application be forwarded to the Commissioners Court without addressing the Department’s comments, in which event the Department will make its recommendation and itemize the deficient or outstanding items for the Commissioners Court.

(C) Upon written request of the Applicant, the Director may extend the Applicant's thirty-day response time to provide supplemental information, but in no event for longer than sixty (60) additional calendar days.

(D) The Department may review any supplemental materials submitted by an Applicant until the first Wednesday following the expiration of fifteen (15) working days after such supplemental materials were submitted to the Department.

(E) In the event the Applicant fails to respond to the Department within the thirty day response period (or the period as extended by agreement), the Department shall return the Application to the Applicant, without a refund of fees paid, and the Applicant will be required to re-file an original application, with applicable fees, for further consideration of the Application.

(F) All Applications whose technical review period expired on or before Wednesday of any week shall be posted by the Department for consideration by the Commissioners Court at the next regularly scheduled meeting of the Commissioners Court. The Department may post an Application for consideration at any time prior to the expiration of the review period if the review process has been completed.

(G) The Department shall forward the results of its technical review and its recommendations with respect to the Application to the Commissioners Court in writing in accordance with the established schedule for posting items for the agenda of the meeting at which the Application will be considered by the Commissioners Court.

Sub-Chapter 5 - General Requirements for Subdivisions

The following information is required to be submitted for both Preliminary Plans and Final Plats:

§5.01. General Information

Preliminary Plans and Final Plats shall consist of one or more drawings and supporting documents. Drawing shall be prepared at a standard scale, in accordance with the media and size standards included in Chapter 701, Subchapter 7. The drawings and supporting documents shall contain the following information:
(A) Name of the proposed Subdivision, which shall not be the same or deceptively similar to any other subdivision within the County unless the subdivision is an extension of a pre-existing, contiguous subdivision. Applications for subdivisions which are an extension of a pre-existing, contiguous subdivision shall include a designation of the sequence order for each separate application (e.g. Phase II, Section 3, etc.)

(B) The boundary lines and total acreage of the Original Tract, the Subject Property and the proposed Subdivision.

(C) A note stating the total number of Lots within the proposed subdivision and the average size of Lots, and the total number of Lots within the following size categories: 10 acres or larger, larger than 5.0 acres and smaller than 10 acres, 2.00 acres or larger up to 5.00 acres, larger than 1.00 acre and smaller than 2.0 acres and smaller than 1.00 acre.

(D) Approximate acreage and dimensions of each Lot, roadway and parkland/open space tract.

(E) The location of any proposed parkland, squares, greenbelts, school tracts, open space or other public use facilities, the calculation of the required quantity of parkland/open space, and a notation as to whether this requirement is being satisfied through dedication, fee-in-lieu, or a combination of both.

(F) Names of adjoining subdivisions or owners of property contiguous to the proposed Subdivision.

(G) Geographic Coordinates shall be reflected on the drawings for the main entrance point to the proposed subdivision from an existing public roadway and for the most extreme property boundary corners of the parent tract(s) constituting the boundaries of the Subject Property in each compass direction (e.g.northernmost, southernmost, etc.). Geographic coordinates for Preliminary Plans may be reported using navigational grade precision (using navigational grade Global Positioning System [GPS] equipment). Geographic coordinates obtained using more precise methods are also acceptable for Preliminary Plans.

(H) Name and address of the Texas licensed professional land surveyor and/or Texas licensed professional engineer preparing the Application materials.

(I) Name and address of the Owner(s) of the Subject Property, and Applicant if not the Owner.

(J) Area map, with a scale not to exceed 1" = 600', showing general location of Subdivision in relation to major roads, towns, cities or topographic features.

(K) North arrow, scale and date. The scale shall not exceed 1" = 200'.

(L) Boundary lines of any incorporated municipality and the limit of the extraterritorial jurisdiction of any municipality.

(M) The location of Political Subdivision (e.g. school districts, municipal utility districts, groundwater conservation districts, emergency services districts, etc.) boundaries and/or a statement clearly indicating in which Political Subdivision(s) the Subdivision is located. In the event any Lot lies within more than one Political Subdivision then the plat shall
that the location and dimensions of roadways as set forth are in accordance with these
roadways and shall contain a written certification from a Texas licensed Professional Engineer
A proposed subdivision shall satisfy the requirements of Chapter 715 of these Regulations and
shall make provision for serving the subdivision with other utilities:
(A) Designation of the entity supplying electric, telephone and natural gas utilities to the
development, or a statement that such utility is not available.
(B) The location of all proposed utility easements and/or infrastructure, including water well
sanitary easements, if applicable.
(C) A Water and Wastewater Service Plan, if required by Chapter 715.
(D) Certification that all Lots have been designed in compliance with Chapter 741, together
with all planning and evaluation materials required to determine Lot sizing under the
Chapter 741 and any request for a variance under Chapter 741.
(E) Any applicable separation distances from identified streams or other applicable off-site
receptors in accordance with Chapter 741.
(F) For developments where the Subject Property is fifty (50) acres or greater, or which may
result in fifty (50) or more dwelling units, the Applicant shall indicate on the plat an
easement to the public to allow the County, the State of Texas, or a Groundwater
Conservation District with jurisdiction over the subject property to install and maintain
groundwater monitoring wells. Such easement shall be at least fifty (50) feet by fifty (50)
feet, shall have public access from a Regulated Roadway, shall not be encumbered by
other uses, such as drainage features or utilities, and shall be located in parkland, open
space, or other undeveloped common spaces otherwise dedicated to the public. All costs
for the installation, operation and maintenance of the groundwater monitoring wells and
access controls (e.g. roadways, fences, etc.) shall be borne by the entity installing the
wells.

§5.03. Roadway and Right-of-Way Information
A proposed subdivision shall satisfy the requirements of Chapter 721 relating to design of
roadways and shall contain a written certification from a Texas licensed Professional Engineer
that the location and dimensions of roadways as set forth are in accordance with these
Regulations. This information is not the sealed Construction of Roadways and Storm Water
Management plans that are required after approval of preliminary plan. The information
included with the Application shall illustrate:
(A) Location, length and right-of-way widths of all proposed roadways and a depiction of
how all proposed roadways shall connect with previously dedicated, platted or planned
roadways within the vicinity of the Subdivision.
(B) Proposed names or designations for all roadways, public access easements, and shared
access driveways, and a statement indicating that the Applicant has coordinated all such
names or designations with the County “911” coordinator.
(C) Location, size and proposed use of all proposed access easements, or Shared Access
Driveways, if any.

§5.02. Water, Wastewater and Utilities Information
A proposed subdivision shall satisfy the requirements of Chapter 715 of these Regulations and
shall make provision for serving the subdivision with other utilities:
(A) Designation of the entity supplying electric, telephone and natural gas utilities to the
development, or a statement that such utility is not available.
(B) The location of all proposed utility easements and/or infrastructure, including water well
sanitary easements, if applicable.
(C) A Water and Wastewater Service Plan, if required by Chapter 715.
(D) Certification that all Lots have been designed in compliance with Chapter 741, together
with all planning and evaluation materials required to determine Lot sizing under the
Chapter 741 and any request for a variance under Chapter 741.
(E) Any applicable separation distances from identified streams or other applicable off-site
receptors in accordance with Chapter 741.
(F) For developments where the Subject Property is fifty (50) acres or greater, or which may
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(A) Location, length and right-of-way widths of all proposed roadways and a depiction of
how all proposed roadways shall connect with previously dedicated, platted or planned
roadways within the vicinity of the Subdivision.
(B) Proposed names or designations for all roadways, public access easements, and shared
access driveways, and a statement indicating that the Applicant has coordinated all such
names or designations with the County “911” coordinator.
(C) Location, size and proposed use of all proposed access easements, or Shared Access
Driveways, if any.
(D) A statement indicating whether the Applicant shall seek public dedication of the roadways or designation of roadways as private roadways.

(E) The number of feet of frontage of each Lot onto a regulated roadway.

(F) A roadway design report prepared in accordance with Chapter 721, unless exempted pursuant to Chapter 721, Subchapter 5.

(G) A designation of the classification of each roadway to be constructed or existing roadways abutting any Lot as determined in accordance with Chapter 721 below.

(H) Proposed location of all depth gauges, at all road crossings where the 100 year frequency flow or lesser frequency storm event is anticipated to flow over the roadway surface and any proposed gates or warning devices. The Department shall evaluate and recommend to the Commissioners Court whether or not to require additional gates or warning devices at such locations.

§5.04. Flood Plain and Storm Water Management Information

A proposed subdivision shall satisfy the requirements of Chapter 725 of these Regulations relating to Storm Water Management Standards and shall contain a written certification from a Texas licensed Professional Engineer stating that the location and approximate sizes of the storm water management structure set forth are in accordance with the Department's Storm Water Management Standards. The information included with the Application shall illustrate:

(A) Elevation contours at no greater than two-foot (2') intervals, based on the North American Vertical Datum (NAVD) of 1988 [NAVD 88].

(B) All Special Flood Hazard Areas identified by the Federal Emergency Management Agency as identified in Chapter 735, Subchapter 3.

(C) For each Lot containing a special flood hazard area, sufficient additional contours to identify and delineate the special flood hazard area (including the 100-year floodplain and regulatory floodway, if any) and the lowest allowable finished floor elevation. If base flood elevations and lowest allowable finished floor elevations have not already been established, they shall be established by a method satisfactory to the Director.

(D) For each subdivision containing a special flood hazard area, at least one benchmark showing the NAVD 88 elevation, as well as geographic coordinates, shall be established using the procedures presented in the Texas Department of Transportation (TXDOT) Survey Manual, latest edition.

(E) A storm water management plan depicting the anticipated flow of all storm water onto and from the subdivision and showing all major topographic features on or adjacent to the property including all water courses, special flood hazard areas, ravines, bridges and culverts.

(F) The location and size of all proposed storm water management structures and easements, including on-site retention or detention ponds and easements and the impact of lot and roadway layouts on drainage.

(G) All storm water management structures to be submitted for consideration of acceptance of maintenance by the County.

§5.04. Flood Plain and Storm Water Management Information

A proposed subdivision shall satisfy the requirements of Chapter 725 of these Regulations relating to Storm Water Management Standards and shall contain a written certification from a Texas licensed Professional Engineer stating that the location and approximate sizes of the storm water management structure set forth are in accordance with the Department's Storm Water Management Standards. The information included with the Application shall illustrate:

(A) Elevation contours at no greater than two-foot (2') intervals, based on the North American Vertical Datum (NAVD) of 1988 [NAVD 88].

(B) All Special Flood Hazard Areas identified by the Federal Emergency Management Agency as identified in Chapter 735, Subchapter 3.

(C) For each Lot containing a special flood hazard area, sufficient additional contours to identify and delineate the special flood hazard area (including the 100-year floodplain and regulatory floodway, if any) and the lowest allowable finished floor elevation. If base flood elevations and lowest allowable finished floor elevations have not already been established, they shall be established by a method satisfactory to the Director.

(D) For each subdivision containing a special flood hazard area, at least one benchmark showing the NAVD 88 elevation, as well as geographic coordinates, shall be established using the procedures presented in the Texas Department of Transportation (TXDOT) Survey Manual, latest edition.

(E) A storm water management plan depicting the anticipated flow of all storm water onto and from the subdivision and showing all major topographic features on or adjacent to the property including all water courses, special flood hazard areas, ravines, bridges and culverts.

(F) The location and size of all proposed storm water management structures and easements, including on-site retention or detention ponds and easements and the impact of lot and roadway layouts on drainage.

(G) All storm water management structures to be submitted for consideration of acceptance of maintenance by the County.
(H) General depiction of the boundary lines of the Edwards Aquifer Recharge Zone, or the Contributing Zone of the Edwards Aquifer, if affecting the property, and a statement certified by the Texas licensed professional surveyor or Texas licensed professional engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of the Edwards Aquifer Recharge Zone or the Contributing Zone of the Edwards Aquifer.

(I) Depiction of all streams, rivers, ponds, lakes, water courses and other surface water features or any Sensitive Features (as defined by the Texas Commission on Environmental Quality in 30 Texas Administrative Code §213.3) and a statement certified by the surveyor or engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of all such features in accordance with the terms of these Regulations.

(J) A statement as to whether or not development of the proposed subdivision is subject to the TCEQ Edwards Aquifer Regulations in 30 TAC §213.

§5.05. Lot Size Requirements

Except where a larger minimum lot size is required elsewhere within these Regulations, a subdivision approved by the County shall be subject to the following minimum lot size requirements:

<table>
<thead>
<tr>
<th>Water Supply Systems</th>
<th>Wastewater Service</th>
<th>Within EARZ</th>
<th>Within EACZ</th>
<th>All Other Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other Water Supply System</td>
<td>TCEQ Permitted Public System</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Other Water Supply System</td>
<td>TCEQ Permitted Private System</td>
<td>1.00</td>
<td>0.75</td>
<td>None</td>
</tr>
<tr>
<td>Public Local Groundwater System</td>
<td>TCEQ Permitted Public System</td>
<td>0.75</td>
<td>0.50</td>
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</tr>
<tr>
<td>Any</td>
<td>OSSF</td>
<td>Refer to Table 741.06 in Chapter 741</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

EARZ – Edwards Aquifer Recharge Zone
EACZ – Edwards Aquifer Contributing Zone

[1] Applicable to new subdivisions and Manufactured Home Rental Communities served by individual private wells located within the Priority Groundwater Management Area and required to demonstrate water availability under Chapter 715, except as modified under §715.3.06(D)

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(H) General depiction of the boundary lines of the Edwards Aquifer Recharge Zone, or the Contributing Zone of the Edwards Aquifer, if affecting the property, and a statement certified by the Texas licensed professional surveyor or Texas licensed professional engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of the Edwards Aquifer Recharge Zone or the Contributing Zone of the Edwards Aquifer.

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§5.06. Parkland and Open Space Requirements

Except as exempted in §705.5.06(A), proposed subdivisions shall make suitable provisions for parks and/or open space through the establishment of parkland and/or open space within the subdivision, by paying a fee to the County in lieu of parkland/open space establishment, or a combination of both methods.

(A) The following proposed subdivisions are exempted from the requirement to make provision for parks and/or open space:

(1) Subdivisions where the Subject Property is less than fifty (50) acres;

(2) Subdivisions that will result in fewer than fifty (50) dwelling units; or,

(3) Subdivisions where the average size of all lots is greater than five (5) acres.

(B) Each subdivision shall make provision for parkland and/or open space at a rate of one (1) acre per fifty acres (two percent [%] 2%) of the Subject Property. Except as provided in Section §705.5.06(E) and (F), areas within drainage, roadway and utility easements or rights-of-way may not be considered as satisfying this requirement. Nothing in this requirement shall be construed to prohibit the placement of utilities within parkland/open space.

(C) Provision of parkland and/or open space within the subdivision shall be reflected on the Preliminary Plan and/or Final Plat. Land areas established as parkland/open space shall have access to at least one existing or proposed public roadway. This requirement may be waived if the Department determines that such access is unnecessary for maintenance of the parkland/open space (e.g. the established area is adjacent to an existing public park or open space area that has such access).

(D) Land established as parkland must be suitable for active and passive recreational uses by the public. In determining whether proposed parkland is suitable, the Applicant shall demonstrate that the size, configuration, topography, surface features and subsurface features allow it to be useable for recreational activities such as children’s play areas, family picnic areas, game court areas, turf fields, swimming pools and other recreational facilities.

(E) Land established as open space shall consist of greenbelts, riparian corridors, habitat conservation areas and similar areas which are intended to remain in their natural state. Future development of the established open space shall be prohibited in perpetuity through the means of a conservation easement or equivalent legal instrument. The easement or instrument shall be granted to the public and shall be held by the County or other non-profit legal entity recognized by the County as custodian for the County. Such easement or instrument shall be in such form and under such conditions as are acceptable to the County.

(F) Where Parkland/open space is acceptable to the County for public dedication, it shall be subject to the following requirements:

(1) Where the established parkland/open space allocation is less than five (5) acres, the entire allocation shall constitute one (1) lot or tract.

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(F) Where Parkland/open space is acceptable to the County for public dedication, it shall be subject to the following requirements:

(1) Where the established parkland/open space allocation is less than five (5) acres, the entire allocation shall constitute one (1) lot or tract.
(2) Where the established parkland/open space area is greater than five (5) acres, if the Applicant elects to separate the allocation, each separate lot or tract shall be a minimum of three (3) acres in size, even if this requirement causes the parkland/open space allocation to exceed the minimum requirement outlined above.

(3) At least twenty five percent (25%) of the required allocation shall be suitable parkland, as outlined in Section §705.5.06(C) which is not within a floodplain or drainage easement. The remainder of the required allocation may be satisfied with either additional parkland or through open space. Such additional parkland/open space allocation may be located within a floodplain or drainage easement for an open channel, if the channel is to remain in its natural state.

(4) Parkland/open space proposed for dedication to the public shall be duly noted in the Application and on the Preliminary Plan and/or Final Plat. Parkland/open space dedicated to the public shall provide for public access in accordance with the County’s standards for other County-owned and/or operated Parkland and open space. It shall be the responsibility of the Applicant to develop a Parkland/open space access plan to be incorporated into the Development Authorization. The Permittee shall incorporate into the development all access controls features required by the Parkland/open space access plan.

(G) In lieu of establishing Parkland/open space within the subdivision through dedication to the public, an Applicant may establish Parkland/open space to be privately managed. The Applicant shall develop and submit for approval a Parkland/open space management plan to be incorporated into the Development Authorization. The Permittee shall incorporate into the development all access controls features required by the Parkland/open space management plan and shall operate the parkland/open space in accordance with this plan.

(H) At the County’s discretion, the Applicant shall pay a fee in-lieu of establishing such parkland/open space in the subdivision. Fees shall be payable as outlined in Chapter 701.

(1) The fee amount shall be established by multiplying the total Parkland/open space acreage required under this Chapter by an established value. The established value shall be determined using, at the discretion of the applicant, either the assessed tax value of all the parent tracts for the Subject Property (on a per acre basis) or the value determined by an appraisal performed by an accredited appraiser selected by the Applicant with the approval of the County.

(2) Fees paid in lieu of dedicated parkland/open space shall be expended by the County solely for acquisition, development or rehabilitation of parkland or open space or for improvements to existing parklands or open space. In expending monies collected in lieu of dedicated parkland/open space, the County shall be required to spend at least fifty percent (50%) of the fees on eligible projects within the County Precinct(s) from which these fees originated.

§5.07. Dedication of Additional Parkland and Open Space

The establishment of parkland and/or open space in amounts exceeding the minimum requirements of this Subchapter shall be eligible for any economic incentives authorized under these Regulations.

(2) Where the established parkland/open space area is greater than five (5) acres, if the Applicant elects to separate the allocation, each separate lot or tract shall be a minimum of three (3) acres in size, even if this requirement causes the parkland/open space allocation to exceed the minimum requirement outlined above.

(3) At least twenty five percent (25%) of the required allocation shall be suitable parkland, as outlined in Section §705.5.06(C) which is not within a floodplain or drainage easement. The remainder of the required allocation may be satisfied with either additional parkland or through open space. Such additional parkland/open space allocation may be located within a floodplain or drainage easement for an open channel, if the channel is to remain in its natural state.

(4) Parkland/open space proposed for dedication to the public shall be duly noted in the Application and on the Preliminary Plan and/or Final Plat. Parkland/open space dedicated to the public shall provide for public access in accordance with the County’s standards for other County-owned and/or operated Parkland and open space. It shall be the responsibility of the Applicant to develop a Parkland/open space access plan to be incorporated into the Development Authorization. The Permittee shall incorporate into the development all access controls features required by the Parkland/open space access plan.

(G) In lieu of establishing Parkland/open space within the subdivision through dedication to the public, an Applicant may establish Parkland/open space to be privately managed. The Applicant shall develop and submit for approval a Parkland/open space management plan to be incorporated into the Development Authorization. The Permittee shall incorporate into the development all access controls features required by the Parkland/open space management plan and shall operate the parkland/open space in accordance with this plan.

(H) At the County’s discretion, the Applicant shall pay a fee in-lieu of establishing such parkland/open space in the subdivision. Fees shall be payable as outlined in Chapter 701.

(1) The fee amount shall be established by multiplying the total Parkland/open space acreage required under this Chapter by an established value. The established value shall be determined using, at the discretion of the applicant, either the assessed tax value of all the parent tracts for the Subject Property (on a per acre basis) or the value determined by an appraisal performed by an accredited appraiser selected by the Applicant with the approval of the County.

(2) Fees paid in lieu of dedicated parkland/open space shall be expended by the County solely for acquisition, development or rehabilitation of parkland or open space or for improvements to existing parklands or open space. In expending monies collected in lieu of dedicated parkland/open space, the County shall be required to spend at least fifty percent (50%) of the fees on eligible projects within the County Precinct(s) from which these fees originated.

§5.07. Dedication of Additional Parkland and Open Space

The establishment of parkland and/or open space in amounts exceeding the minimum requirements of this Subchapter shall be eligible for any economic incentives authorized under these Regulations.
Sub-Chapter 6 - Preliminary Plan

§6.01. General Information
A proposed Preliminary Plan shall include all of the information required by Subchapter 5 of this Chapter.

§6.02. Number of Copies
The Applicant shall submit with the Application four (4) eighteen inch (18") by twenty four inch (24") copies of the Preliminary Plan and one digital data file of the signed/sealed final drawings in accordance with the Hays County Digital Data Submittal Standards. The Department may require up to eight (8) additional hard copies of the Preliminary Plan.

Sub-Chapter 7 - Approval of Preliminary Plan

§7.01. Criteria for Approval of Preliminary Plan
The Commissioners Court shall approve a Preliminary Plan if it satisfies each of the requirements for a Preliminary Plan set forth in these Regulations.

§7.02. Construction Activities
Approval of a Preliminary Plan does not authorize any construction or Development activities, except as permitted in Chapter 731, but merely authorizes the Applicant to proceed with the preparation of a Final Plat.

§7.03. No Conveyance of Lots
Conveyance of lots depicted on a Preliminary Plan shall not be permitted until the final plat has been approved and the record plat filed with the County Clerk.

§7.04. Expiration
In accordance with Section 245.005 of the Local Government Code, approval of a Preliminary Plan shall expire and be of no further force and effect in the event a Final Plat for a portion of the Subdivision is not filed within twelve (12) months following the date of the Commissioners Court approval of the Preliminary Plan or in the event that no progress has been made towards completion of the project within the project activity period. For purposes of this section, the term “project activity period” means the later of:
(A) Two (2) years from the date of approval of the Preliminary Plan; or,
(B) Five (5) years from the date the first permit application was filed for the project.

Sub-Chapter 8 - Final Plat

§8.01. General Information
(A) Bearings and dimensions of the boundary of the Subdivision and all Lots, parks, greenbelts, easements or reserves. Dimensions shall be shown to the nearest one-hundredth of a foot (0.01') and bearings shall be shown to the nearest one second of angle
§8.02. Flood Plain and Drainage Information

(A) For subdivisions containing special flood hazard areas, multiple benchmarks shall be provided and recommended finished floor elevations established for each lot in accordance with Chapter 735.

(B) For each subdivision containing a special flood hazard area, at least one monument containing latitude and longitude and NAVD 88 datum elevation.

§8.03. Roadway and Right-of-Way Information

(A) Total length of all roadways, to the nearest one-tenth mile, and a declaration as to which category of roadway will be constructed, as described in Chapter 721.

(B) Total area of all rights-of-way proposed for dedication.

(01°). The length of the radius and arc of all curves, with bearings and distances of all chords, shall be clearly indicated.

(B) Description of monumentation used to mark all boundary, lot and block corners, and all points of curvature and tangency on street rights-of-way, in accordance with the regulations of the Texas Board of Land Surveying.

(C) The subdivision shall be located with respect to an original corner of the original survey of which it is part, in accordance with the regulations of the Texas Board of Land Surveying.

(D) Lot and block numbers for each Lot.

(E) Acreage of all Lots, calculated to the nearest one-hundredth of an acre.

(F) The building setback lines from Regulated Roadways identified in Chapter 721.

(G) Geographic Coordinates, reported to resource-grade precision (sub-meter accuracy as defined by the U.S. Bureau of Land Management), shall be reflected on the drawings for: the main entrance point to the subdivision from an existing public roadway and for the most extreme property boundary corner in each compass direction (e.g. northernmost, southernmost, etc.).

(H) The Geographic Coordinates, reported to resource-grade precision (sub-meter accuracy as defined by the U.S. Bureau of Land Management), shall be reflected electronically in the digital data submission for:

(1) All points for which Geographic Coordinates are reflected on the printed drawing, along with;

(2) Each corner, inflection point, or point of curve for the property boundary of the subdivision; and,

(3) Each corner, inflection point, or point of curve for the centerline of all regulated roadways and shared access driveways.

(I) Any impervious cover calculations required to document compliance with a development agreement or any other applicable federal, state or local regulation.

§8.02. Flood Plain and Drainage Information

(A) For subdivisions containing special flood hazard areas, multiple benchmarks shall be provided and recommended finished floor elevations established for each lot in accordance with Chapter 735.

(B) For each subdivision containing a special flood hazard area, at least one monument containing latitude and longitude and NAVD 88 datum elevation.

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(A) Total length of all roadways, to the nearest one-tenth mile, and a declaration as to which category of roadway will be constructed, as described in Chapter 721.

(B) Total area of all rights-of-way proposed for dedication.
§8.04. Water, Wastewater and Utilities Information

(A) The following statement shall appear prominently on the Final Plat: "No structure in this subdivision shall be occupied until connected to an individual water supply or state-approved community water system. Due to declining water supply, prospective property owners are cautioned by Hays County to question the seller concerning ground water availability. Rain water collection is encouraged and in some areas may offer the best renewable water resource."

(B) The following statement shall appear prominently on the Final Plat: "No structure in this subdivision shall be occupied until connected to a permitted sewer system or to an on-site wastewater system that has been approved and permitted by Hays County."

(C) Applicants that submit a Water and Wastewater Service Plan under Chapter 715, one of the following statements, utilizing the words “water”, “wastewater” or both, as required, shall appear prominently on the Final Plat:

(1) “The filer of this plat has submitted to the Department a Water and Wastewater Service Plan describing how [water] [and] [wastewater] service will be provided to this subdivision.”; or,

(2) “The filer of this plat has submitted to the Department a Water and Wastewater Service Plan describing how [water] [and] [wastewater] service will be provided to this subdivision, but under Department Regulations, this subdivision is exempt from the requirements to demonstrate the availability of [water] or [wastewater] service.”

(D) For subdivision plats applicants exempt from submitting a Water and Wastewater Service Plan under Chapter 715, the following statements shall appear prominently on the Final Plat: “Under Department Regulations, this subdivision is exempt from the requirements to demonstrate the availability of water and wastewater service.”

(E) A set of Geographic Coordinates for each intersection, change in direction, or point of curve for the centerline of all regulated roadways and shared access driveways for the purpose of establishing “911” Street addresses within the subdivision.

(F) The following statement shall appear prominently on the Final Plat: "In order to promote safe use of roadways and preserve the conditions of public roadways, no driveway constructed on any lot within this subdivision shall be permitted access onto a public roadway unless:

(1) a Permit for use of the County Roadway Right-of-way has been issued under Chapter 751; and,

(2) the driveway satisfies the minimum spacing requirement for driveways set forth in Chapter 721.

(G) Where required, the minimum driveway culvert size for each lot.

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Sub-Chapter 9 - Approval of Final Plat

§9.01. Criteria for Approval of Final Plat
The Commissioners Court shall approve a Final Plat if it satisfies each of the Requirements for a Final Plat set forth in these Regulations.

§9.02. Approval of a Final Plat
Approval of a Final Plat shall not authorize any construction or Development activities, except as permitted under Chapter 731, but merely authorizes the Applicant to proceed with preparation of a Record Plat.

§9.03. Expiration
Approval of a Final Plat shall expire and be of no further force and effect in the event that:

(A) A Record Plat, as required by these Regulations, is not actually filed with the County Judge's office for signature within twelve (12) months of the approval of the Final Plat; or,

(B) No progress has been made towards completion of the project within the project activity period. For purposes of this section, the term "project activity period" means the later of:

(a) Two (2) years from the date of approval of the Final Plat; or,

(b) Five (5) years from the date the first permit application was filed for the project; or,

(3) No portion of the land subdivided under a plat approved under this Chapter is sold or transferred before January 1 of the 51st year after the year in which the plat was approved.

The intent of establishing an expiration period for a final plat under this Section is to allow the County to enforce future minimum size, configuration and arrangement standards on lots within the expired subdivision and is not intended to deprive the public of any use of dedicated public features within the expired subdivision. Publicly dedicated features included in any final plat that expires under this Section shall remain subject to

§8.05. Other Plat Notes and Certifications
(A) The following statement shall appear prominently on the plat: "No construction or development within the subdivision may begin until all Hays County Development Authorization requirements have been satisfied."
(B) Plats shall contain the notes and certifications required by the Hays County Plat Note and Certification Standards, as applicable.

§8.06. Number of Copies
The Applicant shall submit with the Application six (6) eighteen inch (18") by twenty four inch (24") copies of the Final Plat and one digital data file of the signed/sealed final drawings in accordance with the Hays County Digital Data Submittal Standards. The Department may require up to fourteen (14) additional copies of the Final Plat.

Sub-Chapter 9 - Approval of Final Plat

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(B) No progress has been made towards completion of the project within the project activity period. For purposes of this section, the term "project activity period" means the later of:

(a) Two (2) years from the date of approval of the Final Plat; or,

(b) Five (5) years from the date the first permit application was filed for the project; or,

(3) No portion of the land subdivided under a plat approved under this Chapter is sold or transferred before January 1 of the 51st year after the year in which the plat was approved.

The intent of establishing an expiration period for a final plat under this Section is to allow the County to enforce future minimum size, configuration and arrangement standards on lots within the expired subdivision and is not intended to deprive the public of any use of dedicated public features within the expired subdivision. Publicly dedicated features included in any final plat that expires under this Section shall remain subject to
control by the County, including the ability to require a configuration on any subsequent plat for the affected property that accommodates at least the footprint of the public features included in the expired plat.

**Sub-Chapter 10 - Record Plat**

§10.01. Submission of Record Plat to the Department

Following approval of the Final Plat, the Applicant shall present a Record Plat to the Department for final approval and delivery to the County Judge for execution, in accordance with Chapter 701, Subchapter 12. The Record Plat shall contain, or be submitted with, the following:

(A) Any Water Pollution Abatement Plan or Contributing Zone Plan approved by the Texas Commission on Environmental Quality required under the Edwards Aquifer Rules, or evidence that no such plan is required as of the date of the Record Plat (the Department may require a letter from the TCEQ evidencing that no such plan has been issued or is yet required for the subdivision);

(B) All items required in Subchapters 5 and 8 above, including filing fees and tax certificates; and,

(C) Original signatures and original seals and signatures for licensed or registered professionals.

§10.02. Filing with the County Clerk

Final Plats that have been executed by the County Judge or the County Judge’s designated representative may be presented to the County Clerk for filing in the County plat records, in accordance with Chapter 701, Subchapter 12.

§10.03. Record Plat

One (1) eighteen inch by twenty four inch (18” x 24”) photographic mylar shall be presented to the County Clerk for recording as the Record Plat. All writing and drawings on the Record Plat must be large enough to be easily legible following recording.

**Sub-Chapter 11 - Revision and Cancellation**

§11.01. Cancellation

Any Application to cancel an existing plat shall be submitted and considered in accordance with Texas Local Government Code Section §232.008, which establishes, among other things:

(A) The Application shall be granted if it is shown that the cancellation of all or a part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation;

(B) Notice of the Application must be published in English in the County for at least three weeks before action is taken on the application;

(C) Upon Application of the owners of 75 percent of the property included in the subdivision, phase or identifiable part, the Commissioners Court shall authorize the cancellation upon notice and hearing as required under Texas Local Government Code Section §232.008, provided that if the owners of at least 10 percent of the property affected file written

control by the County, including the ability to require a configuration on any subsequent plat for the affected property that accommodates at least the footprint of the public features included in the expired plat.

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(B) All items required in Subchapters 5 and 8 above, including filing fees and tax certificates; and,

(C) Original signatures and original seals and signatures for licensed or registered professionals.

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(B) Notice of the Application must be published in English in the County for at least three weeks before action is taken on the application;

(C) Upon Application of the owners of 75 percent of the property included in the subdivision, phase or identifiable part, the Commissioners Court shall authorize the cancellation upon notice and hearing as required under Texas Local Government Code Section §232.008, provided that if the owners of at least 10 percent of the property affected file written
that:

The Commissioners Court may approve an application to revise a subdivision upon a finding
§11.03.  

(D) Establishing a certain private action for damages against the Applicant for persons who
protest unsuccessfully against a cancellation application. In the event of any conflict or
inconsistency between the summary set forth above and the actual terms of Texas Local
Government Code §232.008, as amended, the terms of the Texas Local Government
Code shall control in all respects.

§11.02.  Revision

The Owner of an existing lot or lots in a platted subdivision may submit an application to revise
the portion of the existing plat affecting such Lots, unless prohibited by plat notes filed pursuant
to these Regulations, by submitting the following to the Department:

(A)  The general information required by Chapter 701, Subchapter 12 and Subchapter 4 of this
Chapter;

(B)  A copy of all existing recorded plats affected by the proposed revision;

(C)  Six (6) eighteen inch (18") by twenty four inch (24") hard copies of the proposed revised
plat, conforming in all respects to the requirements of these Regulations;

(D)  If the proposed revision is being submitted by a private homeowner who is not a
developer in the subdivision, other materials acceptable to the Director clearly setting
forth the desired revision may be substituted for items (A) through (C), above;

(E)  A statement giving the reason for the proposed revision;

(F)  A filing fee as established by the Commissioners Court;

(G)  Any revision for the purposes of adjusting lot lines, or the consolidation of lots may with
the concurrence of the Precinct Commissioner be allowed to submit a Final Plat
Application only, without the need to submit a Preliminary Plan; and,

(H)  Minor revisions and lot line corrections to previously platted lots that do not change the
total acreage of any affected lot by more than ten percent (10%) of its original acreage
may be approved administratively by the Department. The Department shall prepare a
written review and recommendation for signature to the County Judge for all revisions
approved administratively.

§11.03.  Criteria for Approval

The Commissioners Court may approve an application to revise a subdivision upon a finding
that:

(A)  The revision will not interfere with the established rights of any owner of a part of the
subdivided land; or each owner whose rights may be interfered with has agreed to and
signed the revised plat; and

(B)  The plat as revised conforms to the requirements of the Regulations.
Sub-Chapter 12 - Public Notice

§12.01. Applicant Sponsored Public Meeting

As required under Chapter 701, Subchapter 10, for those Applications where the Subject Property encompasses fifty (50) or more acres; or the ultimate plan for development of the Subject Property will result in fifty (50) or more individual dwelling units, the Applicant is required to conduct a public meeting. Applicants for all other types of Applications are also encouraged to conduct public meetings. When public meetings are held in conjunction with Applications filed under these Regulations, the public meeting shall be conducted in accordance with Chapter 701, Subchapter 10.

§12.02. Notice Required

Except as exempted under §705.12.07, below, all Applications seeking approval from the County for a Preliminary Plan or Final Plat shall be required to notify the public using posted notice, written notice, and published notice. For Applications where the Final Plat is submitted prior to the expiration of the Preliminary Plan in accordance with §705.7.04, the notices issued for the Preliminary Plan shall satisfy the notice requirements for the Final Plat.

§12.03. Posted Notice

The Applicant shall be required to notify the public upon submission of an Application under this Chapter, including Applications for new subdivisions and Applications for revision or cancellation of an existing subdivision plat, in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:

NOTICE OF APPLICATION TO SUBDIVIDE

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.

§12.04. Written Notice for New Subdivisions

The Applicant shall be required to notify affected political subdivisions and owners of Contiguous Property upon submission of an application under this Chapter in accordance with the requirements for Written Notice in §701.9.05. In addition to the items required under §701.9.05, the written notice must include, at the minimum, the following information:

(A) The total area of the proposed subdivision and the number of platted lots included in the Subject Property;

(B) The anticipated timetable for build-out of the subdivision and any anticipated subsequent phases of development, including an estimated population for each phase and at full buildout; and,

(C) A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.

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(A) The total area of the proposed subdivision and the number of platted lots included in the Subject Property;

(B) The anticipated timetable for build-out of the subdivision and any anticipated subsequent phases of development, including an estimated population for each phase and at full buildout; and,

(C) A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.
§12.05.  Written Notice for Resubdivision or Cancellation

Except as noted below, an Applicant for revision or cancellation of an existing subdivision plat shall be required to notify all owners within the original subdivision by certified or registered mail, return receipt requested in accordance with the requirements for Written Notice in §701.9.05. In addition to the items required under §701.9.05, the written notice must include, at the minimum, the following information:

(A) For Applications involving revision of an existing subdivision plat, a detailed description of the proposed revision to the plat.

(B) For Applications involving cancellation of an existing subdivision plat, a statement that an Application has been filed requesting that the County cancel and vacate the plat and any associated Development Authorizations.

§12.06.  Published Notice for Revision or Cancellation

After the date the Department posts the revision or cancellation of an existing subdivision plat for consideration by the Commissioners Court, but before the application is considered by the Court, the Applicant shall have published all notices required by Texas Local Government Code Sections §232.009, including a notarized publisher’s affidavit demonstrating publication of the application in a newspaper of general circulation in the area affected by the resubdivision, including a statement of the time and place at which the Commissioners Court will meet to consider the application and hear protests, if any. As required by Texas Local Government Code Section §232.009, the notice shall be published three (3) times during the period beginning on the 30th calendar day and ending on the 7th calendar day prior to the date of the Commissioners Court hearing. The Published Notice shall be completed in accordance with the requirements for Published Notice in Chapter 701.

§12.07.  Exemption from Notice for Certain Revisions

If written concurrence with the proposed revision is obtained from all property owners affected by the revision and submitted to the Department, Applications for the following specific types of revisions shall be exempt from the notification requirements outlined above:

(A) Revisions for the purposes of minor lot-line adjustments or corrections; or,

(B) Revisions involving the consolidation of two or more lots.
CHAPTER 706 - RESERVED

CHAPTER 706 - RESERVED
CHAPTER 707 - RESERVED

CHAPTER 707 - RESERVED
CHAPTER 708 - RESERVED

CHAPTER 708 - RESERVED
CHAPTER 709 - RESERVED

CHAPTER 709 - RESERVED
CHAPTER 710 - RESERVED
CHAPTER 711 - SITE DEVELOPMENT REVIEW AND DEVELOPMENT AUTHORIZATIONS

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern the issuance of various types of development reviews and Development Authorizations based on other Chapters within these regulations. Development Authorizations and permits governed under this Chapter shall include:

(A) Flood Hazard Area permits;
(B) On-Site Sewage Facility (OSSF) permits;
(C) Manufactured Home Rental Community permits;
(D) Use of County Properties or Facilities permits;
(E) Regulated Land Use/Location Restriction permits.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 232, 233 and 234.

§1.03. Site Development Review Allowed
All persons or activities which are or may reasonably be subject to these Regulations may submit an Application to the Department requesting a site development review. This review shall be conducted in accordance with Subchapter 2.

§1.04. Permit Required
Except as authorized below, approval of the County of a permit or other Development Authorization is required prior to conducting any of the development activities outlined in these Regulations, unless excluded or exempted under State or Federal law.

§1.05. Approval Required Prior to Construction
Approval of the County is required prior to the commencement of activities authorized under a Development Authorization, including any associated construction. These regulations apply only to activities which commenced on or after the effective date of these Regulations.

Sub-Chapter 2 - Site Development Review Applications

§2.01. General Requirements and Application Procedures
Applications to the Department for site development review are subject to the general requirements and Application procedures set forth in Chapter 701 of these Regulations.

§2.02. Additional Application Information
In addition to the items required to be submitted in accordance with Chapter 701, Subchapter 7, all Applications to the Department for site development review, including amendments or supplemental materials, shall be delivered to the Department and shall be include:
(A) Information suitable to allow the precise location of the Subject Property to be determined. Types of information submitted for the Subject Property may include:

(1) The “911” Street Address;
(2) Geographic Coordinates;
(3) Current Legal Description; or,
(4) The Primary and Secondary Access/Frontage Roadways.

(B) A detailed description of the specific activities proposed for the Subject Property.

(C) A site sketch or other information in sufficient detail to describe the location within the Subject Property of the proposed activities, including the location of specific improvements to be constructed.

§2.03. Site Development Review By the Department

The Department shall review each site development review Application submitted and issue a written determination to the Applicant as to whether the Department believes the specific site development activities proposed require a Development Authorization. Written determinations issued by the Department shall conform to the following:

(A) Where the Department determines a Development Authorization from the County is not required, the written notice issued by the Department shall indicate that the activity may proceed without objection by the County.

(B) Where the Department determines that a Development Authorization is required, the written determination shall:

(1) Identify the specific type of Development Authorization that the Department believes is required;
(2) Reference the specific section(s) of these Regulations which require the Development Authorization; and,
(3) Reference the Department’s application forms and any supplemental instructions or guidance documents applicable to the type of Development Authorization required.

(C) Where the Department’s review determines that a specific activity or component of a proposed activity is prohibited under the Regulations, the written determination shall:

(1) Identify the prohibited activity and indicate why it is prohibited;
(2) Reference the specific section(s) of these Regulations and the legal authority by which the activity is prohibited; and,
(3) State that proceeding with the prohibited activity would be a violation of these Regulations that may subject the Applicant and/or the Property Owner to enforcement by the County.
§3.01. Basis for Issuance
The Department shall issue permits or other Development Authorizations for regulated activities to Applicants under one of the following conditions:

(A) The Commissioners Court has approved a permit or other Development Authorization for an Application submitted under these regulations; or,
(B) The Commissioners Court has delegated authority to the Department to approve an Application based on established criteria, provided that the Department shall:
   (1) Document that the Application met the established criteria; and,
   (2) Provide written notification to the Commissioners Court that such Application was approved by the Department under authority delegated by the Commissioners Court, and that a permit or other Development Authorization was issued based on that approval.

§3.02. Types of Development Authorizations
Subject to approval of the Application, under §711.3.01, and under the authority of this Chapter and other applicable Chapters, the Department may issue the following types of Development Authorizations:

(A) “Flood Hazard Area Permit” in accordance with Chapter 735;
(B) “On-Site Sewage Facility” (OSSF) permit in accordance with Chapter 741;
(C) “Manufactured Home Rental Community” permit in accordance with Chapter 745;
(D) “Use of County Properties or Facilities” permit in accordance with Chapter 751;
(E) “Regulated Land Use/Location Restriction” permits in accordance with Chapter 755 or other portions of these Regulations where variances may be approved by the County to otherwise applicable land use or locations restrictions; or,
(F) “Combined Development Authorization”, to authorize any combination of the various types of Development Authorizations identified in (A)-(E) above.

Sub-Chapter 4 - General Application Procedures

§4.01. General Requirements and Application Procedures
Applications to the Department for approval of any of the various Development Authorizations pursuant to this Chapter are subject to the general requirements and Application procedures set forth in Chapter 701 of these Regulations.

§4.02. Additional Application Information
In addition to the items required to be submitted in accordance with Chapter 701, Subchapter 7, all Applications to the Department for Development Authorizations in accordance with this Chapter, including amendments or supplemental materials, shall be delivered to the Department and shall include:

(A) Identification of the Permittee who agrees to be bound by the terms of the development authorization, if issued, including any special provisions incorporated by the
In addition to the items required to be submitted with the Application in accordance with Chapter 701 and Section §711.4.02, each Application shall be supplemented with the following information:

(A) Property location map(s), which utilizes at least one of the following base maps:
(1) A topographic map as published by the U.S. Geological Survey (USGS), or an equivalent map from another source, indicating the location of the Subject Property;
(2) A County Roadway map as published by the Texas Department of Transportation indicating the location of the Subject Property; and/or,
(3) A County Roadway map from another source that accurately depicts the location of the Subject Property.

(B) A site drawing in sufficient detail to describe the location within the property of the proposed activities, including the location of specific improvements to be constructed.

(C) Existing and proposed public and private roadways, including those designated for general egress/ingress and those designated for emergency access to the proposed development.

(D) An erosion and sedimentation control plan prepared in accordance with the Hays County Erosion Controls Manual or the Storm Water Pollution Prevention Plan developed in accordance with the TCEQ Construction Site Storm Water Permitting Program.

§4.03. Supplemental Information

In addition to the items required to be submitted with the Application in accordance with Chapter 701 and Section §711.4.02, each Application shall be supplemented with the following information:

(A) Property location map(s), which utilizes at least one of the following base maps:
(1) A topographic map as published by the U.S. Geological Survey (USGS), or an equivalent map from another source, indicating the location of the Subject Property;
(2) A County Roadway map as published by the Texas Department of Transportation indicating the location of the Subject Property; and/or,
(3) A County Roadway map from another source that accurately depicts the location of the Subject Property.

(B) A site drawing in sufficient detail to describe the location within the property of the proposed activities, including the location of specific improvements to be constructed.

(C) Existing and proposed public and private roadways, including those designated for general egress/ingress and those designated for emergency access to the proposed development.

(D) An erosion and sedimentation control plan prepared in accordance with the Hays County Erosion Controls Manual or the Storm Water Pollution Prevention Plan developed in accordance with the TCEQ Construction Site Storm Water Permitting Program.
§5.01. General Information
Permits or other Development Authorizations for site development activities issued by the Department shall contain the general information required for Development Authorizations outlined in Chapter 701, Subchapter 11.

§5.02. Expiration
The Development Authorization documentation shall identify its expiration date. Expired permits are null and void and require a new Application, including application fees. Unless otherwise specified in these Regulations or required by applicable state or federal requirements, in accordance with Section 245.005 of the Local Government Code, approval of a permit or Development Authorization shall expire and be of no further force and effect in the event that no progress has been made towards completion of the project within the project activity period. For purposes of this section, the term “project activity period” means the later of:
(A) Two (2) years from the date of issuance of the permit or Development Authorization; or,
(B) Five (5) years from the date the first permit application was filed for the project.
CHAPTER 712 - RESERVED

CHAPTER 712 - RESERVED
CHAPTER 713 - RESERVED
CHAPTER 715 - WATER AND WASTEWATER AVAILABILITY
Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern demonstrations of water and wastewater availability required in conjunction with the approval of subdivision plats and the issuance of permits for Manufactured Home Rental Communities, unless excluded or exempted under State law or as exempted in these Regulations.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 232, 233 and 234, and under Texas Water Code Chapter 35.

§1.03. Approval Required
In accordance with TLGC Chapter 232, approval of the County is required prior to a utility furnishing water or wastewater service to subdivisions and Manufactured Home Rental Communities under the jurisdiction of these regulations. Prior to furnishing utility service, the prospective utility provider shall apply for a certification from the Department stating that the applicable Development Authorization has been issued by the County.

§1.04. Water System Classifications and Requirements
Under authority granted to the County under the Texas Water Code and the Texas Local Government Code, the Commissioners Court established classifications for water supply sources recognized under these Regulations to implement the minimum lot size requirements in Chapters 705 and 741. Specific definitions for these classifications are provided in Subchapter 3 of Chapter 701.

(A) Local Groundwater System
A Local Groundwater Supply System is any water supply system that obtains greater than one-third of its overall supply from Local Groundwater. Applicants that plan to serve any phase of a development with a Local Groundwater Supply System must comply with the minimum lot size and other requirements contained in these Regulations for Local Groundwater Supply Systems, except as outlined in §715.1.04(B). As outlined in the remainder of this Chapter, water supply systems that use Local Groundwater must comply with the requirements stipulated in this Chapter for the use of that Local Groundwater in any quantity. For implementation purposes, this classification of water supply systems is further subdivided into Public Local Groundwater Supply Systems and Non-Public Groundwater Supply Systems. Public Local Groundwater Supply Systems are those owned and/or operated by a governmental entity recognized under the Texas Local Government Code or any system designated a Public Water System by the Texas Commission on Environmental Quality. Non-Public Local Groundwater Supply Systems are any Local Groundwater Supply System that does not qualify as a Public Local Groundwater Supply System, including, but not limited to individual water supply wells.

(B) Other Water Supply Systems
Systems which are not Local Groundwater Supply Systems are considered Other Water Supply Systems. Other Water Supply Systems obtain more than two-thirds of their total supply from...
any combination of surface water, rainwater harvesting and groundwater that is not Local Groundwater. The Commissioners Court will consider on a case by case basis requests to reclassify certain Local Groundwater Supply Systems as an Other Water Supply System for the purposes of serving a specific development. Local Groundwater Supply Systems that obtain greater than one-third, but less than one-half, of their the total supply from Local Groundwater may request this reclassification from the Commissioners Court for the purposes of serving a specific development.

Applicants wishing to request reclassification of a specific system shall submit, within ten (10) working days of making an Application for a Development Authorization, a letter to the Department requesting that the reclassification be considered by the Commissioners Court. If the request for reclassification is approved by the Commissioners Court, the Applicant and/or the Permittee will be required to enter into a Development Agreement with the County pursuant to Chapter 771 of these Regulations. The initial request letter shall include contact information for all parties who will be included in drafting the Development Agreement with the County. Within ten (10) working days of receipt of this request, a County representative will contact the Applicant or his designated representative regarding the proposed Development Agreement. A development agreement shall be drafted within thirty (30) working days, unless all parties involved agree on an extended timeline.

Applicants who plan to serve all phases of a development with an Other Water Supply System may utilize the minimum lot size and other requirements contained in these Regulations for Other Water Supply Systems.

§1.05. Compliance with Regulations Constitutes No Warranty by County

While these rules are intended to preserve and protect the water resources of Hays County, the Commissioners Court of Hays County does not make any warranty - express, implied or otherwise - that developments that comply with these rules will be able to meet the water or wastewater needs of those whom the development serves.

Sub-Chapter 2 - Administrative Procedures

§2.01. Water and Wastewater Service Plan Required

An Applicant for a Development Authorization shall prepare a Water and Wastewater Service Plan demonstrating the availability of both water and wastewater service to the proposed development. This plan will be required to demonstrate the availability of either water or wastewater service in the event that a demonstration of availability of the other service is exempted.

§2.02. Preparation of Water and Wastewater Service Plan

The Water and Wastewater Service Plan shall be prepared by qualified personnel holding the proper credentials to perform their services in the State of Texas. The report shall be prepared under the direction of and sealed by a Texas licensed professional engineer, with the following exceptions:

(A) For developments for which either water or wastewater availability or both is being demonstrated using only an existing TCEQ permitted system, the Applicant may include availability statements in accordance with Subchapters 3 and/or 4 of this Chapter, provided that the Water and Wastewater Service Plan indicates that facilities providing
service from the TCEQ permitted system shall be designed by a Texas licensed professional engineer;

(B) For developments for which water availability is being demonstrated using only individual private water wells, the Applicant may include a water availability statement in accordance with Subchapter 3 of this Chapter prepared by a Texas licensed professional geoscientist or professional engineer; or,

(C) For developments for which wastewater availability is being demonstrated using only On-site Sewage Facilities subject to permitting by the County under Chapter 741, the Applicant may include a wastewater availability statement in accordance with §715.4.05.

§2.04. Availability Demonstrations Using Multiple Methods

The Water and Wastewater Service Plan may demonstrate availability using multiple methods, subject to the following conditions:

(A) The anticipated percentage of the service need to be satisfied by each method and the conditions under which each method is to be utilized shall be clearly identified;

(B) For developments for which water availability is being demonstrated using only individual private water wells, the Applicant may include a water availability statement in accordance with Subchapter 3 of this Chapter prepared by a Texas licensed professional geoscientist or professional engineer; or,

(C) For developments for which wastewater availability is being demonstrated using only On-site Sewage Facilities subject to permitting by the County under Chapter 741, the Applicant may include a wastewater availability statement in accordance with §715.4.05.

§2.03. Contents of Water and Wastewater Service Plan

The Water and Wastewater Service Plan shall describe how the proposed development will be provided with both water and wastewater service. The Water and Wastewater Service Plan shall, at a minimum, contain the following information:

(A) A description of how water and wastewater service will be provided to serve all portions of the development (e.g. platted lots or rental units);

(B) Identification of all water and wastewater facilities associated with the proposed development;

(C) Identification of all water and wastewater facilities to be placed in County rights-of-way;

(D) For phased developments, the description must address all water and wastewater facilities proposed to be utilized throughout full build-out of the development;

(E) For developments where the availability of either water or wastewater has been based upon demand or use restrictions or limitations, the Applicant shall include in the Water and Wastewater Service Plan the procedures to implement demand or use restrictions so there is reasonable assurance that demand or use will not be allowed to exceed the demonstrated availability. These provisions shall include procedures to notify the end user of the restrictions/limitations and that the County has been granted the right to enforce such restrictions/limitations;

(F) For service methods that require any operating and/or maintenance components for any system other than a TCEQ permitted system, written operations procedures shall be included in the Water and Wastewater Service Plan;

(G) For developments that are regulated by the Edwards Aquifer Authority or the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules are met; and,

(H) For developments within the jurisdiction of a Groundwater Conservation District, a statement acknowledging that all applicable requirements of the GCD will be met.
Communities must meet to demonstrate water availability using Local Groundwater for the
This Subchapter addresses the requirements that Subdivisions and Manufactured Home Rental
§3.03.
Items Common to All Water Availability Demonstrations
The following items shall be addressed in all water availability demonstrations prepared under
these regulations, regardless of the source(s) utilized:
(A) An estimate of the amount of water demand throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development;
(B) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source;
(C) A description of any anticipated new water facility improvements required to serve the development;
(D) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision;
(E) An estimated timetable for completion of all facilities; and,
(F) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all water facilities throughout all phases of development shall be identified and included in the application.
§3.03. Notification for All Developments Utilizing Local Groundwater
This Subchapter addresses the requirements that Subdivisions and Manufactured Home Rental Communities must meet to demonstrate water availability using Local Groundwater for the

(B) Any procedures for switching between service methods shall be clearly identified; and,
(C) Potential conflicts between service methods shall be clearly identified.

§3.01. Applicability
The following developments are exempted from the requirements to certify water availability under these Regulations. The County encourages exempted developments to comply with these Regulations.
(A) Exempted subdivisions as defined under §701.3.01.
(B) Exempted Manufactured Home Rental Communities as defined under §745.2.01.
(C) The following categories of non-exempt subdivisions are not required to demonstrate water availability, subject to the inclusion of a plat note prohibiting further non-exempt subdivision or re-subdivision for a period of five (5) years following the filing of the Final Plat:
   (1) All non-exempt subdivisions of five (5) lots or less in which all lots average at least two (2) acres.
   (2) All subdivisions of ten (10) lots or less in which all lots are larger than ten (10) acres.

§3.02. Items Common to All Water Availability Demonstrations
The following items shall be addressed in all water availability demonstrations prepared under these regulations, regardless of the source(s) utilized:
(A) An estimate of the amount of water demand throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development;
(B) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source;
(C) A description of any anticipated new water facility improvements required to serve the development;
(D) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision;
(E) An estimated timetable for completion of all facilities; and,
(F) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all water facilities throughout all phases of development shall be identified and included in the application.

§3.03. Notification for All Developments Utilizing Local Groundwater
This Subchapter addresses the requirements that Subdivisions and Manufactured Home Rental Communities must meet to demonstrate water availability using Local Groundwater for the
purposes of obtaining a Development Authorization from the County. These Regulations do not include the details for requirements on the withdrawal and use of groundwater that may originate from the regulations other entities. The public is hereby notified that portions of Hays County are within the jurisdiction of other governmental entities, including Groundwater Conservation Districts and the Edwards Aquifer Authority, which regulate the withdrawal and use of groundwater under direct authority from the State of Texas, independent from the authority of Hays County. Within their statutory authority, these other governmental entities may impose requirements in addition to those contained in these Regulations. The Department shall cause to be included in any Development Authorizations issued under these Regulations a notice that valid limitations imposed by these other authorized entities are incorporated as a special provision into the terms of the County’s Development Authorization and may be enforced as such by the County. The Department shall also develop and publish requirements for incorporating into the Record Documents notice of the requirements of these other governmental entities.

Where applicable federal, state or local statutes require Applicants to submit water availability certifications to other governmental entities, the Applicant shall document compliance with these requirements. Where the Department is made aware of applicable regulations of other entities, the Department shall process any Application as requesting a variance where that Application is determined to not be in compliance with such other regulations. It is the intention of these Regulations that all Applications be processed, to the extent authorized under State law, to not conflict with Groundwater Management Area planning efforts, established sustainable yields, desired future conditions, and managed available groundwater volumes.

§3.04. Procedures for Department Coordination with the Applicable Groundwater Conservation District

For all water availability demonstrations which rely in whole or in part on Local Groundwater, the Department shall ensure that a copy of the water availability demonstration is submitted to the applicable groundwater conservation district(s) [GCD] for review and comment. Where the Applicant is required to make such a submittal under §715.3.03, the Department shall forward to the GCD within ten (10) working days of receipt, a written request for review and comment on the portion of the availability demonstration relying on Local Groundwater. Where such submittal to the GCD is not otherwise required by the Applicant, the Department shall forward the information to the GCD within ten (10) working days of receipt, with a written request for review and comment on the portion of the availability demonstration relying on Local Groundwater. If the Department has not received written comments from the GCD within fifteen (15) working days, the GCD shall be considered as having waived the opportunity for review and comment on the availability demonstration. The Department shall consider all comments received from the GCD and may request such additional information from the Applicant as the Department deems appropriate in response to these comments. The Department shall include a summary of any comments timely received from the applicable GCD in any report made to the Commissioners Court on an Application. If the County has adopted a Memorandum of Understanding (MOU) with any GCD, the Department shall follow the procedures outlined in the MOU.
§3.05. Water Availability Demonstrations Using Individual Private Water Wells Producing Local Groundwater

In addition to the requirements outlined in §715.3.02, Applicants requesting approval to utilize one or more individual private water wells using Local Groundwater to serve the proposed development shall construct at least two wells (one test well and one monitor well). Use of existing wells will be permitted if the wells fully meet these regulations. Well analyses shall be performed by a Texas licensed professional engineer or Texas licensed professional geoscientist, qualified to perform the hydrogeological testing, geophysical well logging and aquifer pump testing. The following information shall be provided to Commissioners Court for each well tested:

(A) Identify the hydrogeologic formation by well driller’s log and approved geophysical logging methods. Provide a map and list of all known wells within 1,000 feet of the proposed subdivision boundaries (or a distance where measurable drawdown effects from the proposed subdivision well are expected). Each well is to be located by latitude and longitude.

(B) The Certification of Groundwater Availability For Platting Form as required by the TCEQ rules on Groundwater Availability Certification for Platting at 30 Tex. Admin. Code Section 230.3. The Department shall require an applicant to submit any engineering calculations, studies or other data supporting the statements contained in the Certification of Groundwater Availability For Platting Form.

Applicants requesting approval to utilize individual private water wells producing Local Groundwater to serve proposed new development in a Priority Groundwater Management Area, describing the extent to which water and wastewater service will be made available, and how and when such service will be made available.

§3.06. Additional Requirements for Subdivisions Served by Individual Water Wells Producing Local Groundwater in Priority Groundwater Management Areas

Applicants requesting approval to utilize individual private water wells producing Local Groundwater to serve proposed new development in a Priority Groundwater Management Area, as that term is defined by the Texas Commission on Environmental Quality, shall be subject to the following additional requirements:

(A) The person preparing the groundwater availability certification shall document that they obtained available information on historical water levels and known water wells from the applicable Groundwater Conservation District.

(B) The person preparing the groundwater availability certification shall perform a walking receptor survey around the perimeter of the Subject Property to identify the visual location of apparent undocumented water wells and to visually confirm the presence of documented water wells within five hundred (500) feet of the boundaries of the subject property.

(C) The person preparing the groundwater availability certification shall estimate the average annual recharge (per acre) in the vicinity of the Subject Property using a Groundwater Availability Model (GAM) reviewed and approved by the Texas Water Development Board.
D) The person preparing the groundwater availability certification shall utilize the estimated annual average recharge rates (developed under §715.3.06.C) to determine the total estimated annual recharge for the footprint area of the Subject Property. The estimated annual recharge for the Subject property shall be compared to the projected annual groundwater withdrawal, to assess whether the projected withdrawal exceeds the estimated recharge. For developments where the projected withdrawal exceeds estimated recharge, the Applicant shall take one or more of the following steps:

1. Comply with the minimum lot size requirement of 6.00 acres, as presented in Table 705.05.01;

2. Provide a supplemental demonstration of water availability based on an Other Water Supply System and prorate the minimum lot size requirement using 6.00 acres for the percentage provided by Local Groundwater and the otherwise applicable value from Table 705.05.01 for the Other Water Supply System; or,

3. Subject to the requirements of §715.3.06(F), secure the future development rights for currently undeveloped property in a quantity sufficient to balance the groundwater withdrawal for the Subject Property with overall recharge from the Subject Property and other property, and provide Written Notice, as outlined in Chapter 701, to the owners of all proximate property for which a groundwater well is documented or discovered during the walking receptor survey and the owners of any other documented well within one-quarter mile of the Subject Property, that the projected groundwater use for the proposed development is being offset through the acquisition of additional property. The Department shall make available to the public standardized notice language for this purpose.

E) For developments where the availability of groundwater is limited to less than the flow required to support fully developed conditions, the Applicant shall include in the Water and Wastewater Service Plan the procedures to be utilized to limit groundwater withdrawal to the certified available quantity.

F) Property outside the Subject Property that is used for the purpose of balancing the groundwater withdrawal for the Subject Property shall comply with the following conditions:

1. Eligible additional property must recharge to the same aquifer zone as the Subject Property and be within the same PGMA.

2. All such additional property shall be subject to a conservation easement or equivalent legal mechanism structured to prohibit in perpetuity its future subdivision or development. The easement or instrument shall be granted to the public and shall be held by the County or other non-profit legal entity recognized by the County as custodian for the County. Such easement or instrument shall be in such form and under such conditions as are acceptable to the County.

3. For properties located within the jurisdiction of public entities having zoning authority, the Applicant shall provide documentation that the zoning for the additional property is “agricultural”, “open space” or other equivalent zoning that allows little to no development of the additional property.
(4) The additional property shall either be contiguous to the Subject Property or located within five (5) miles of the Subject Property.

(5) Additional property that is contiguous to the Subject Property may be considered as providing the same recharge as the Subject Property.

(6) Additional property that is not contiguous but is located within five (5) miles of the Subject Property shall be considered as providing seventy five percent (75%) of the recharge provided by the Subject Property.

(7) In instances where the Applicant proposes to secure the development rights from a property (the originating property) that is outside the jurisdiction of the County and within the jurisdiction of one or more local governmental entities, the Applicant must provide documentation of the written approval of the transfer from each such local governmental entity with jurisdiction over the originating property.

§3.07. Water Availability Demonstrations Utilizing a new TCEQ public water supply system:

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through a new public water supply system shall include the following information in the Water and Wastewater Service Plan:

(A) If water service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.

(B) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the Applicant shall supply a letter to the Department from the water service provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

(C) Within ten (10) working days of receiving this supply letter, the Department shall notify in writing all governmental entities which the Department has record of having jurisdiction over any aspect of water supply to the proposed development requesting their comments on the letter. In instances where the water service provider does not own or otherwise control the source(s) of supply, the Department may require that the Applicant obtain supporting documentation certifying the availability of adequate supply from the actual water supply source(s) in addition to the information required to be provided by the water service provider. The Department shall include in any Development Authorization a Special Provision recognizing the requirements of any other governmental entity with established jurisdiction over the proposed development. Any disputes between the Applicant, water service provider and other governmental jurisdictions shall be heard by the Commissioners Court.

(D) For developments within the jurisdiction of a Groundwater Conservation District that utilize groundwater in their demonstration, a formal groundwater availability analysis, in accordance with 30 TAC 230, shall be completed, along with a statement acknowledging that all applicable requirements of the GCD will be met.
§3.08. Water Availability Demonstrations Utilizing an existing TCEQ-permitted public water supply:

If wholesale or retail water service is to be provided by an existing water utility or other existing water service provider, an applicant shall submit a written statement from the existing provider containing the following:

(A) A description of the authority of the existing provider to serve the proposed phase of development.

(B) A statement as to whether the existing provider has available capacity to serve the proposed phase of development, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development.

(C) A description of the type of water service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.

(D) Identification of any anticipated water supply or service agreements that will need to be executed prior to the provision of service.

(E) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

(F) Within ten (10) working days of receiving this supply letter, the Department shall notify in writing all governmental entities which the Department has record of having jurisdiction over any aspect of water supply to the proposed development requesting their comments on the letter. In instances where the water service provider does not own or otherwise control the source(s) of supply, the Department may require that the Applicant obtain supporting documentation certifying the availability of adequate supply from the actual water supply source(s) in addition to the information required to be provided by the water service provider. The Department shall include in any Development Authorization a Special Provision recognizing the requirements of any other governmental entity with established jurisdiction over the proposed development. Any disputes between the Applicant, water service provider and other governmental jurisdictions shall be heard by the Commissioners Court.

§3.09. Water Availability Demonstrations Utilizing Rainwater Harvesting

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through rainwater harvesting shall include the following information in the Water and Wastewater Service Plan:

(A) Estimates of the water availability from rainwater harvesting shall be based upon the “The Texas Manual on Rainwater Harvesting”, published by the Texas Water Development Board, or other industry standard sources acceptable to the Department.

(B) Water demand estimates for demonstrations involving rainwater harvesting, including demonstrations utilizing multiple water sources, may not be lower than the largest value of the following:

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through rainwater harvesting shall include the following information in the Water and Wastewater Service Plan:

(A) Estimates of the water availability from rainwater harvesting shall be based upon the “The Texas Manual on Rainwater Harvesting”, published by the Texas Water Development Board, or other industry standard sources acceptable to the Department.

(B) Water demand estimates for demonstrations involving rainwater harvesting, including demonstrations utilizing multiple water sources, may not be lower than the largest value of the following:
(A) The maximum water usage rates for “water conserving households” identified by the American Water Works Association, “Residential End Uses of Water”;

(2) A total of forty five (45) gallons per person per day;

(3) A total of one hundred fifty (150) gallons per dwelling unit per day.

(C) The Water and Wastewater Service Plan shall include a standardized design for a rainwater harvesting system, prepared by a Texas licensed professional engineer, using design parameters applicable to the location of the Subject Property. This standardized design shall be based on a prototype representative of actual conditions anticipated to be present in the proposed development, including typical structure sizes and materials of construction. The standardized design shall include schematic plans, drawings and descriptions for the various component parts of the prototype system, and shall include any minimum requirements (e.g. minimum storage tank sizes) and appropriate adjustment factors to be used for each component to account for the range of differing sizes and configurations of structures anticipated to be present in the proposed development.

(D) The Water and Wastewater Service Plan shall include a standardized operations and maintenance plan for a rainwater harvesting system, prepared by a Texas licensed professional engineer. This operating and maintenance plan shall be based on the prototypical design and shall describe in detail the operating and maintenance requirements for each component of the prototypical rainwater harvesting system.

(E) The Water and Wastewater Service Plan shall clearly identify any water conservation measures and use limitations used in estimating the water demand and shall include the provisions to be utilized to ensure that the end users of the rainwater harvesting systems are aware of the need to follow these restrictions.

(F) Where rainwater harvesting constitutes the sole source of water supply for the development, the Applicant shall incorporate sufficient restrictions (including deed restrictions and plat notes) into the development documents to ensure that subsequent owners or users of the property do not install or utilize groundwater wells, until an updated water availability demonstration is approved documenting sufficient groundwater is available.

Sub-Chapter 4 - Wastewater Service Availability

§4.01. Development Permits

The Department shall issue no On-Site Sewage Facility or development permit on any parcel of land unless that property is in compliance with all the requirements of these Regulations.

§4.02. Items Common to All Wastewater Availability Demonstrations

The following items shall be addressed in all wastewater availability demonstrations prepared under these regulations, regardless of the management method(s) utilized:

(A) A description of any new wastewater collection, treatment, storage, pumping and conveyance facilities. If the project is to be phased, the description must address all wastewater facilities proposed to be utilized throughout full build-out of the development.

Sub-Chapter 4 - Wastewater Service Availability

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The following items shall be addressed in all wastewater availability demonstrations prepared under these regulations, regardless of the management method(s) utilized:

(A) A description of any new wastewater collection, treatment, storage, pumping and conveyance facilities. If the project is to be phased, the description must address all wastewater facilities proposed to be utilized throughout full build-out of the development.
§4.03. Wastewater Availability Demonstrations Utilizing a new TCEQ-permitted wastewater system:

Applicants proposing to serve a development through a new wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with wastewater service. The Water and Wastewater Service Plan shall at a minimum contain the following information:

(A) Identification of the proposed method of wastewater effluent disposal or re-use and a listing of any TCEQ permits that will be needed to implement the proposed wastewater disposal or re-use.

(B) If wastewater service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.

(C) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide wastewater service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

§4.04. Wastewater Availability Demonstrations Utilizing an existing TCEQ-permitted wastewater system

Applicants proposing to serve a development through an existing wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with wastewater service. The Water and Wastewater Service Plan shall at a minimum contain the following information:

(A) An estimate of the amount of wastewater that will be treated and managed throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out.

(B) A statement as to whether there are plans for alternative or backup wastewater service; if so, an identification of the alternative or backup wastewater source.

(C) A map showing the location of all wastewater facilities throughout all phases of development as well as the proposed wastewater service area, including any TCEQ-approved service area boundaries of a wastewater service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed development.

(D) A map showing the location of all wastewater facilities throughout all phases of development as well as the proposed wastewater service area, including any TCEQ-approved service area boundaries of a wastewater service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed development.

(E) Include an estimated timetable for completion of facilities.

(F) Identification of the proposed method of wastewater effluent disposal or re-use and a listing of any TCEQ permits that will be needed to implement the proposed wastewater disposal or re-use.

(G) Include an estimated timetable for completion of facilities.

(F) Identification of the proposed method of wastewater effluent disposal or re-use and a listing of any TCEQ permits that will be needed to implement the proposed wastewater disposal or re-use.

(G) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all wastewater facilities throughout all phases of development shall be identified and included in the application.

§4.04. Wastewater Availability Demonstrations Utilizing an existing TCEQ-permitted wastewater system

Applicants proposing to serve a development through an existing wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with wastewater service. The Water and Wastewater Service Plan shall at a minimum contain the following information:

(A) Identification of the proposed method of wastewater effluent disposal or re-use and a listing of any TCEQ permits that will be needed to implement the proposed wastewater disposal or re-use.

(B) If wastewater service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.

(C) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide wastewater service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

§4.04. Wastewater Availability Demonstrations Utilizing an existing TCEQ-permitted wastewater system

Applicants proposing to serve a development through an existing wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with wastewater service. The Water and Wastewater Service Plan shall at a minimum contain the following information:
(A) A description of the authority of the existing provider to serve the proposed phase of development.

(B) A statement as to whether the existing provider has available capacity to serve the proposed phase of development.

(C) A description of the type of wastewater service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.

(D) Identification of any anticipated wastewater service agreements that will need to be executed prior to the provision of service.

(E) Prior to the approval of the final plat the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide wastewater service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

§4.05. Developments to be served by On-Site Sewage Facilities:

Applicants proposing to serve a development by On-Site Sewage Facilities shall submit a design report sealed by a Texas licensed professional engineer or a Texas registered sanitarian describing how the proposed development will be provided with wastewater service. The wastewater design report shall at a minimum contain the information required by Item §715.04.02 and must meet the requirements of Chapter §741, “On-Site Sewage Facilities”.

(A) A description of the authority of the existing provider to serve the proposed phase of development.

(B) A statement as to whether the existing provider has available capacity to serve the proposed phase of development.

(C) A description of the type of wastewater service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.

(D) Identification of any anticipated wastewater service agreements that will need to be executed prior to the provision of service.

(E) Prior to the approval of the final plat the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide wastewater service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

§4.05. Developments to be served by On-Site Sewage Facilities:

Applicants proposing to serve a development by On-Site Sewage Facilities shall submit a design report sealed by a Texas licensed professional engineer or a Texas registered sanitarian describing how the proposed development will be provided with wastewater service. The wastewater design report shall at a minimum contain the information required by Item §715.04.02 and must meet the requirements of Chapter §741, “On-Site Sewage Facilities”.

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CHAPTER 717 - RESERVED

CHAPTER 717 - RESERVED
CHAPTER 718 - RESERVED

CHAPTER 718 - RESERVED
CHAPTER 721 - ROADWAY STANDARDS

Sub-Chapter 1 - Applicability

§1.01. Applicability
This Chapter shall govern the following items related to Regulated Roadways within the County:

(A) The design and construction of all Regulated Roadways as defined in Chapter 701.
(B) The minimum roadway widths and building set back lines for Regulated Roadways.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234, and under the Texas Transportation Code (TTC) Chapters 251, 286 and 545.

§1.03. Approval Required
Approval of the Commissioners Court is required prior acceptance by the County of Regulated Roadways. Separate approval is required under Chapter 751 for any use of existing County facilities, including roadway rights-of-way, which are not part of the Application for a Development Authorization.

Sub-Chapter 2 - Roadway Classifications

§2.01. Basis for Classification
Regulated Roadways shall be classified based on the criteria established in "A Policy on Geometric Design of Highways and Streets", latest edition, as developed by the American Association of State Highway and Transportation Officials (AASHTO). For the purposes of these Regulations, regulated roadways shall be designed to handle the average daily traffic (ADT) estimated to occur for a period of twenty (20) years following completion of construction of the roadway, with the pavement sections and widths required to accommodate the design ADT at the applicable speed limits adopted by the County. At a minimum, pavement sections and widths shall conform to the suggested minimum requirements established by AASHTO for the specified classification of roadway. Roadways shall also be classified under TTC Chapter 251. Roadway classification information is included in Table 721.02.

§2.02. Country Lane
A Country Lane shall be a one or two lane paved roadway, without improved shoulders, and considered a Special Purpose Road with a design capacity of up to 100 ADT in accordance with AASHTO design standards, and third-class roadways in accordance with TTC Chapter 251.

§2.03. Local Roadway
A Local Roadway shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Local Rural Road with a design capacity of between 101 and 1,000 ADT in accordance with AASHTO design standards, and third-class roadways in accordance with TTC Chapter 251.
§2.04. Urbanized Local Roadway
An Urbanized Local Roadway shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Special Purpose Road with a design capacity of up to 1,000 ADT in accordance with AASHTO design standards and third-class roadways in accordance with TTC Chapter 251.

§2.05. Minor Collector
A Minor Collector shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Rural Collector with a design capacity of 2,501 to 5,000 ADT in accordance with AASHTO design standards, and may be either second-class or third-class roadways in accordance with TTC Chapter 251.

§2.06. Major Collector
A Major Collector shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of 5,001 to 15,000 ADT in accordance with AASHTO design standards, and may be either first-class or second-class roadways in accordance with TTC Chapter 251.

§2.07. Minor Arterial
A Minor Arterial shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of 5,001 to 15,000 ADT in accordance with AASHTO design standards, and may be either second-class or third-class roadways in accordance with TTC Chapter 251.

§2.08. Major Arterial
A Major Arterial shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of greater than 15,000 ADT in accordance with AASHTO design standards, and may be either first-class or second-class roadways in accordance with TTC Chapter 251.

Sub-Chapter 3 - Public Roadways

§3.01. Dedication to Public
Any dedication of a roadway to the County for public use shall be accomplished using one of the methods allowed under Chapter 701, Subchapter 11. No dedication shall be effective until the record document is recorded. In no event shall any private lot extend into a dedicated public roadway.

§3.02. Publicly Maintained and Dedicated Roadways
Roadways dedicated to the public (Public Roadways) shall be required in all developments approved under these Regulations, except those satisfying the criteria for private roadways, as set forth below. All such Public Roadways shall be paved and shall be Regulated Roadways designed and constructed in accordance with the specifications set forth in Chapter 721, Subchapter 5. The boundary lines of all subdivision Lots fronting onto a publicly dedicated right-of-way shall be contiguous with the boundary of the right-of-way.
§3.03. Construction of Public Roadways

Public Roadways shall be considered public infrastructure, subject to the requirements of Chapter 731. Unless interim authorization for construction is obtained under Chapter 731, construction of public roadways shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations.

§3.04. Connections to Public Roadways under the Jurisdiction of Other Entities

Certain Regulated Roadways and appurtenances governed by these Regulations may require connection to or construction on or within the right-of-way of public roadways under the jurisdiction of other public entities, including the Texas Department of Transportation (TXDOT), or any other authorized state or federal government entity. All construction and access to these roadways conducted in conjunction with a development authorized under these Regulations shall comply with the requirements of the entity having jurisdiction over the affected public roadway.

Sub-Chapter 4 - Private Roadways

§4.01. General Requirements for Private Roadways

All private roadways qualifying as Regulated Roadways (Regulated Private Roadways) shall be designed and constructed in accordance with the standards in Chapter 721, Subchapter 5 for Public Roadways. All Regulated Private Roadways shall have a surface suitable for all-weather access to all portions of the proposed development served by such Regulated Private Roadway.

§4.02. Criteria for Determining Private Roadway Status

Regulated Private Roadways shall be permitted only in conjunction with a development approved under these Regulations if they satisfy each of the following criteria:

(A) The person(s) responsible for the operation and maintenance of the Regulated Private Roadway has executed an agreement with the Commissioners Court acknowledging responsibility for such operation and maintenance;

(B) The executed agreement includes financial assurance, as required by the Commissioners Court; and,

(C) Lots within the development served by the Regulated Private Roadway shall have an average size greater than 5 acres; or.

The Commissioners Court has entered into an approved Development Agreement with the Owner or Permittee regarding the development of a master-planned community of no fewer than fifty (50) residential Lots.

§4.03. General Requirements for Maintenance of Private Roadways

Development Authorizations that include the use of Regulated Private Roadways shall be subject to a maintenance agreement with the County. The person(s) responsible for maintenance under the agreement may be the Owner of the Subject Property, the Permittee, or another person or entity acceptable to the County. The following provisions apply to Regulated Private Roadways:

(A) The following note shall be conspicuously displayed on the Record Documents filed in conjunction with the Development Authorization:

The executed agreement includes financial assurance, as required by the Commissioners Court; and,

Lots within the development served by the Regulated Private Roadway shall have an average size greater than 5 acres; or.

The Commissioners Court has entered into an approved Development Agreement with the Owner or Permittee regarding the development of a master-planned community of no fewer than fifty (50) residential Lots.

§4.03. General Requirements for Maintenance of Private Roadways

Development Authorizations that include the use of Regulated Private Roadways shall be subject to a maintenance agreement with the County. The person(s) responsible for maintenance under the agreement may be the Owner of the Subject Property, the Permittee, or another person or entity acceptable to the County. The following provisions apply to Regulated Private Roadways:

(A) The following note shall be conspicuously displayed on the Record Documents filed in conjunction with the Development Authorization:
§4.04. Additional Requirements for Private Roadways to be Maintained by an Association
Concurrently with the filing of an Application for a Development Authorization that will include Regulated Private Roadways, the Applicant shall submit the following:

(A) Ready-for-execution copies of the articles of incorporation and bylaws of the homeowners or property owners association; and,  
(B) The minimum annual assessments that will be imposed upon members of the association.

Sub-Chapter 5 - Standards for Regulated Roadways

§5.01. Applicability
Regulated Roadways are defined in Chapter 701, and include all roadways associated with an Application for a Development Authorization under these Regulations, including existing public roadways that are being connected or modified to accommodate the effects of a proposed development, new roadways dedicated to the public as part of a Development Authorization, new private roadways, shared access easements, and shared access driveways used for emergency services access as a part of a Development Authorization, and driveways, utilities, storm water management facilities or other facilities within the right-of-way of a Regulated Roadway.

§5.02. Design Requirements
All Regulated Roadways and related improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and roadways and

[A] by purchasing such property, acknowledge and agree that Hays County shall have no obligation whatsoever to repair or accept maintenance of the roadways shown on this approved development plan until and unless [Owner] and/or the property occupants or tenants have improved the roadways to the then current standards required by Hays County and the roadways have been accepted for maintenance by formal, written action of the County Commissioners Court and the roadways, with all required right-of-way and building setbacks, have been dedicated by the owners thereof, and accepted by the County, as public roadways. [Owner] and all future owners of property within the limits of the approved development plan shall look solely to the [Owner or Entity entering into Maintenance Agreement with the County] for future maintenance and repair of the roadways included in this development plan; and

(B) Any restrictive covenants establishing a responsibility for roadway operation and maintenance shall be placed on record concurrently with the recording of the Record Documents.

(C) Regulated Private Roadways shall be operated and maintained to allow unrestricted ingress/egress by the occupants of the property and service providers, including emergency services. The maintenance agreement with the County shall include enforcement provisions for Regulated Private Roadways that are not properly operated and maintained.

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All Regulated Roadways and related improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and roadways and

[A] by purchasing such property, acknowledge and agree that Hays County shall have no obligation whatsoever to repair or accept maintenance of the roadways shown on this approved development plan until and unless [Owner] and/or the property occupants or tenants have improved the roadways to the then current standards required by Hays County and the roadways have been accepted for maintenance by formal, written action of the County Commissioners Court and the roadways, with all required right-of-way and building setbacks, have been dedicated by the owners thereof, and accepted by the County, as public roadways. [Owner] and all future owners of property within the limits of the approved development plan shall look solely to the [Owner or Entity entering into Maintenance Agreement with the County] for future maintenance and repair of the roadways included in this development plan; and

(B) Any restrictive covenants establishing a responsibility for roadway operation and maintenance shall be placed on record concurrently with the recording of the Record Documents.

(C) Regulated Private Roadways shall be operated and maintained to allow unrestricted ingress/egress by the occupants of the property and service providers, including emergency services. The maintenance agreement with the County shall include enforcement provisions for Regulated Private Roadways that are not properly operated and maintained.
to permit continuity of improvements to adjacent properties. A Roadway Design Report, prepared by a Texas licensed professional engineer, certifying compliance with these Regulations and other applicable standards shall be prepared and submitted with the Application.

§5.03. Minimum Rights of Way and Building Setbacks

All Regulated Roadways shall comply with the established minimum right-of-way widths and building setback lines based on the roadway classification. Above-grade construction is prohibited within the established building setback lines. Building setback lines apply on each side of a Regulated Roadway. The established minimum right-of-way widths and building setback lines are presented in Table 721.02, below.

§5.04. Design and Construction Standards

(A) The classification and construction standards for all Regulated Roadways shall be determined according to the Average Daily Traffic anticipated for the roadways. The Roadway Design Report shall include estimates of the Average Daily Traffic (ADT) before and after the proposed development. The methodology for estimating ADT shall be based on recognized industry standards, including those utilized by the Texas Department of Transportation (TXDOT) and AASHTO. The post-development ADT shall be based on the maximum number of Lots that would be permitted in the approved development plan.

(B) The geometric requirements for Regulated Roadways shall be identified in the Roadway Design Report and shall be designed to accommodate the design ADT of the roadway. The minimum geometric standards for Regulated Roadways are summarized in Table 721.02.

(C) The design and construction of all Regulated Roadways shall conform to the Hays County Specifications for Paving and Drainage Improvements, as adopted by the Department, and shall include all necessary improvements, including necessary signage and traffic control devices. All signage and traffic control devices shall conform to the “Texas Manual of Uniform Traffic Control Devices,” latest edition, as adopted by TXDOT. Speed bumps are not authorized as traffic control devices on Public Roadways. Pedestrian elements (e.g. sidewalks, crosswalks, access ramps, etc.) for projects in Public Roadways shall comply with the accessibility requirements of the Texas Department of Licensing and Regulation (TDLR), and if required, shall be submitted to TDLR for review and approval.

(D) Incentive for Lots Larger than Five Acres. As an incentive to developers to create lots larger than five acres and to reduce their associated development costs, Country Lane roads may be constructed, without calculation of the Average Daily Traffic, if all Lots with frontage or access onto the roadway are (i) larger than five acres in size, (ii) restricted by a note on the Record Document limiting development to one single family dwelling unit per Lot and prohibiting TCEQ Regulated Development, and (iii) the application is approved by the Department.

(E) Incentives for Bicycle Paths and Lanes. If portions of a Local Roadway or Minor Collector are set aside and appropriately designated for the use of bicycles (or a separate bike path is constructed parallel to the roadway), then the amount of right-of-way dedicated to such bicycle use shall be credited against the width of required shoulders and sides of a Regulated Roadway. The established minimum right-of-way widths and building setback lines are presented in Table 721.02, below.
the Department may reduce the estimated Average Daily Traffic per Lot in determining the design criteria for the roadway served by the bicycle path/lane, in an amount determined appropriate by the Department.

(F) Clearance of Right-of-Way. Upon request by the Owner, the Department shall, to the extent it is safe and prudent to do so, permit preservation of trees of greater than ten inches (10") in diameter, measured one foot from the ground (or the replanting of trees by the Owner), within rights of way of roadways classified as Country Lanes, Local Roadways and Minor Collectors, with greater preservation of trees permitted along roadways with the lower design speed. The Owner shall be responsible for affixing reflectors or other safety devices to any trees preserved within the right-of-way.

§5.05. Access to Regulated Roadways

Except with respect to Lots served by Shared Access Driveways, each Lot shall have the minimum direct frontage onto a Regulated Roadway set forth below and Driveways shall be spaced no closer than the minimum space intervals set forth below, depending on the classification of road onto which the Lot has frontage and the driveway has access. All such driveways shall conform to the Hays County Driveway Specifications, as adopted by the Department.

(A) Incentive for Qualifying Lots. Qualifying Lots will be exempt from the minimum lot frontage and driveway spacing requirements specified above if approved by the Department and Commissioners Court with due regard to safety concerns. A Qualifying Lot is any Lot that (i) is restricted by plat note to development of a single family residence, (ii) has direct access onto a Regulated Roadway and (iii) satisfies the minimum Lot size requirements set forth in these Regulations either through actual lot size or lot size averaging.

(B) Flag Lots. Flag lots shall generally not be permitted, except if approved by the Commissioners Court as consistent with the intent and spirit of these Regulations. The Department shall advise the Commissioners Court if a proposed Lot constitutes a "flag lot" and the Commissioners Court shall, in reviewing all the circumstances, make the final determination.

§5.06. Commercial Driveways

Driveways serving commercial development shall be spaced at the minimum intervals of one hundred fifty feet (150'). Joint-use driveways may be utilized in situations that limit the number of driveway access permits that are issued by either the State of Texas or Hays County to a public roadway, or where safety concerns provide a satisfactory explanation for its use.

§5.07. Shared Access Driveways

Up to one (1) Lot without independent access to a Regulated Roadway may obtain access to a Regulated Roadway by means of a Shared Access Driveway if approved by the Commissioners Court. An additional two (2) Lots having independent access to a Regulated Roadway may also share the use of the Shared Access Driveway. Shared Access Driveways are intended as a means to provide flexibility in the development process, preserve the rural character of the land and avoid excessive infrastructure costs when such costs would provide little or no social benefit. Shared Access Driveways are not intended to serve as a substitute for interior roads. Excessive
use of Shared Access Driveways will not be permitted. Any application proposing shared access driveways shall also satisfy the following requirements:

(A) A plat note must be conspicuously displayed on the plat stating:

(1) All lots served by a Shared Access Driveway are restricted to one single family residence per lot and if any other Development of a Dwelling Unit occurs on any of the Lots obtaining access through the Shared Access Driveway, then such new Dwelling Unit must be constructed on a separately platted lot with direct frontage onto and physical access to a Regulated Roadway prior to construction of the Dwelling Unit. A duplex will not be considered a single family residence for purposes of this subparagraph.

(2) The owners of the Single Family Residences obtaining access through the Shared Access Driveway shall be solely responsible for all maintenance of the driveway, including maintaining any drainage structures associated with the driveway. The driveway must be maintained at all times in a condition that will permit unencumbered vehicular access by emergency vehicles.

(B) Each of the Lots sharing the use of the Shared Access Driveway shall hold equal, indivisible and unrestricted rights in the Shared Access Driveway, which rights shall be established by recorded easement and the easement shall run with the land of each of the benefited Lots. The easement instrument shall clearly state each Lot's pro rata responsibility with respect to future maintenance or repairs of the Shared Access Driveway.

(C) The Shared Access Driveway shall be no longer than one quarter mile in length and must have a minimum distance of (a) 200 feet from any other driveway entering onto the Regulated Roadway and (b) 500 feet from any other Shared Access Driveway.

(D) The Shared Access Driveway shall have a name or designation approved by the County “911” Coordinator and a separate “911” address shall be established as for each Lot which relies on a Shared Access Driveway for access.

(E) Up to three (3) Lots not having independent access to a Regulated Roadway may share a Shared Access Driveway with up to two (2) Lots having independent access to a Regulated Roadway if all other requirements of this are met and all Lots using or adjacent to the Shared Access Driveway are larger than five acres in size and restricted by Plat note limiting development to one single family residence per Lot and prohibiting TCEQ Regulated Development.

§5.08. Coordination with “911” Addressing System

If not previously established, all Applications for Development Authorization submitted to the County that include a new or altered Regulated Roadway, shared access easement, or a shared access driveway shall obtain approval for the names and/or designations for such roadways, easements or driveways from the County “911” Coordinator, in accordance with Chapter 701, Subchapter 16. The Applicant shall also establish a “911” address for all lots or components of the development served by a Regulated Roadway, shared access easement or shared access driveway associated with that development, in accordance with Chapter 701, Subchapter 16.

use of Shared Access Driveways will not be permitted. Any application proposing shared access driveways shall also satisfy the following requirements:

(A) A plat note must be conspicuously displayed on the plat stating:

(1) All lots served by a Shared Access Driveway are restricted to one single family residence per lot and if any other Development of a Dwelling Unit occurs on any of the Lots obtaining access through the Shared Access Driveway, then such new Dwelling Unit must be constructed on a separately platted lot with direct frontage onto and physical access to a Regulated Roadway prior to construction of the Dwelling Unit. A duplex will not be considered a single family residence for purposes of this subparagraph.

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§5.09. Speed Limits for Regulated Roadways

(A) If not previously established, all Applications for Development Authorization submitted to the County that include a new or altered Regulated Roadway, shared access easement, or a shared access driveway shall establish an appropriate maximum speed limit for such roadways, easements or driveways. Such established maximum speed limits shall not be greater than the maximum speed limits authorized under TTC Chapter 545.352 but shall not be less than the lower maximum speed limits authorized under TTC Chapter 545.355 for the specific type of roadway under consideration. For roadways with speed limits that are established at less than the maximum speed limits authorized under TTC Chapter 545.352, the Roadway Design Report shall include an explanation of the reasons for the reduced maximum speed limits.

(B) Speed limits shall not take effect until such time as the County approves and issues the Development Authorization under which those speed limits were established and signage indicating the established speed limit(s) is actually posted along the roadway.


The Permittee shall submit all required inspections and tests at the completion of each phase of construction of the roadway. Construction Quality Assurance testing shall comply with the following:

(A) Tests on all components of the pavement system, including plasticity index, tests for compacted density, depth of base, distribution of asphalt, and other quality assurance tests required by the County’s adopted roadway construction specifications.

(B) It is the responsibility of the Permittee to coordinate all inspections and laboratory tests with the Department and not to proceed with construction until proper inspections and tests have been obtained.

(C) Any laboratory tests and test holes shall be at the expense of the Permittee.

(D) In no event will any subsequent component be placed on the roadway until the underlying components have been approved in writing by the Department.
## Table 721.02 – Design Requirements Based on Roadway Classification

<table>
<thead>
<tr>
<th>Functional Classification</th>
<th>Country Lane</th>
<th>Local Roadway</th>
<th>Urbanized Local Roadway</th>
<th>Minor Collector</th>
<th>Major Collector</th>
<th>Minor Arterial</th>
<th>Major Arterial</th>
</tr>
</thead>
<tbody>
<tr>
<td>AASHTO Classification</td>
<td>Special Purpose</td>
<td>Local Special Purpose</td>
<td>Rural Special Purpose</td>
<td>Rural Collector</td>
<td>Rural Collector</td>
<td>Rural/Urban Arterial</td>
<td>Rural/Urban Arterial</td>
</tr>
<tr>
<td>Average Daily Traffic (ADT - one way trips*)</td>
<td>Not more than 100</td>
<td>100-1000</td>
<td>Not more than 1000</td>
<td>1000-2500</td>
<td>2500-5000</td>
<td>More than 5000</td>
<td>More than 15000</td>
</tr>
<tr>
<td>Design Speed (mph)</td>
<td>25 mph</td>
<td>35 mph</td>
<td>35 mph</td>
<td>45 mph</td>
<td>55 mph</td>
<td>**</td>
<td></td>
</tr>
<tr>
<td>No. of Travel Lanes</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>**</td>
</tr>
<tr>
<td>Turn Lanes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>**</td>
<td>**</td>
</tr>
<tr>
<td>Min. ROW Width (ft)</td>
<td>50</td>
<td>60</td>
<td>40</td>
<td>60</td>
<td>80</td>
<td>100</td>
<td>**</td>
</tr>
<tr>
<td>Building Setback (ft)</td>
<td>10</td>
<td>15</td>
<td>10</td>
<td>25</td>
<td>30</td>
<td>50</td>
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<tr>
<td>Min. Width of Travelway (ft)</td>
<td>18</td>
<td>20</td>
<td>15</td>
<td>22</td>
<td>24</td>
<td>48</td>
<td>**</td>
</tr>
<tr>
<td>Width of Shoulders (ft)</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>5</td>
<td>6</td>
<td>8</td>
<td>**</td>
</tr>
</tbody>
</table>

### Notes:
* ADT shall be based on an average of 10 one-way trips per dwelling unit per day for residential lots. ADT calculations for commercial or other lots shall be approved by the Department on a case-by-case basis.
** Noted elements shall be approved by the County Engineer on a case-by-case basis.
*** "T" End Designs must conform to minimum AASHTO Standards.
CHAPTER 723 - RESERVED
CHAPTER 724 - RESERVED

CHAPTER 724 - RESERVED
CHAPTER 725 - STORM WATER MANAGEMENT STANDARDS

Sub-Chapter 1 - Applicability

§1.01. Applicability
This Chapter shall govern the design, construction and public dedication and use of all drainage, flood control and storm water management facilities and features (hereafter “storm water management facilities”) for Subdivisions and Manufactured Home Rental Communities within the County but outside the incorporated limits of any municipality in the County.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 232 and 411.

§1.03. Approval Required
Approval of the Commissioners Court is required prior to acceptance by the County of drainage, flood control or storm water features. Separate approval is required under Chapter 751 for any use of County facilities, including roadway rights of way.

Sub-Chapter 2 - Public Facilities

§2.01. Dedication to Public
Any dedication of storm water management facilities to the public shall be accomplished using one of the methods identified in Chapter 701, Subchapter 11. Storm water management facilities to be constructed within dedicated public roadways shall not require separate dedication. In no event shall any private lot extend into a dedicated public storm water management feature.

(A) All public storm water management facilities and other areas of concentrated storm water flow shall be contained within a dedicated public easement or right-of-way.

(B) All areas within a floodplain, as identified in Subchapter 3 of this Chapter, shall be contained within a dedicated public easement or right-of-way.

§2.02. Publicly Maintained and Dedicated Facilities
Storm water management facilities dedicated to the public (hereafter “Public storm water management facilities”) shall be required to provide proper drainage of Regulated Roadways in all developments approved under these Regulations. Constructed public storm water management facilities shall be designed and constructed in accordance with Subchapter 3 of this Chapter. Areas occupied by existing watercourses may also be dedicated to the public as a part of a Development Authorization issued under these Regulations. In the initial submittal to the County (e.g. the preliminary plan or the Infrastructure Development Plan), the Applicant shall identify all storm water management facilities for which County acceptance of maintenance will be requested. Applicants proposing County acceptance of maintenance for storm water management facilities controlling runoff rate or storm water quality from within the development shall be required to enter into a Development Agreement with the County prior to acceptance of maintenance.

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§2.03. Construction of Public Storm Water Management Facilities

Public storm water management facilities shall be considered public infrastructure, subject to the requirements of Chapter 731. Unless interim authorization for construction is obtained under Chapter 731, construction of public storm water management facilities shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations.

Sub-Chapter 3 - Design Criteria

§3.01. Design of Storm Water Management Facilities

All storm water management facilities and related improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of storm water management and to permit continuity of storm water management facilities to adjacent properties. All storm water management facilities shall be designed and/or evaluated by a Texas licensed professional engineer. Documentation evidencing compliance with these Regulations shall be submitted to the Department with the Application. Drainage, flood control and storm water management design methodologies shall be based upon the methods used by the Texas Department of Transportation or other commonly accepted engineering practices used within the area. All design and/or evaluation computations for flood plains and storm water management facilities shall be based on fully developed upstream conditions. For upstream areas that extend off the Subject Property, the Applicant may estimate the fully developed conditions based on information available from the Department based on regional planning efforts or other criteria adopted by the County.

§3.02. Control of Runoff Rate and Volume

Storm water runoff from any proposed development that is discharged from the Subject Property onto adjacent property owners into any other county storm water management facility or any such storm water management facility associated with an existing roadway, whether public or private, must be released at a controlled rate. For rainfall events up to and including the five (5) year event, storm water may be discharged under the post-development conditions at no more than one-half (½) of the maximum discharge rate under pre-development conditions. For storm events exceeding the five (5) year event, storm water runoff may be discharged under the post-development conditions at a rate no greater than when the property was in its undeveloped condition. Post-development storm water management calculations shall be based on fully developed conditions. The Department shall require the submission of materials documenting that the proposed development will be in compliance with this Section.

§3.03. Sizing of Storm Water Management Facilities

All storm water management facilities, including ditches, drainage pipes, roadway curbs, gutter inlets, driveway or roadway culverts, and storm sewers shall be designed to intercept and transport storm water runoff to a public storm water management facility or a defined watercourse.

(A) Storm water management facilities shall be sized to prevent inundation during the 25-year frequency design storm event for all portions of lots not within a building setback line.
(B) Storm water management facilities crossing Regulated Roadways shall be sized to accommodate runoff from the following frequency design storm events without inundating the roadway, based upon the classification of Roadway, as set forth below.

Table 731.03 – Design Storm Frequency Based on Roadway Classification

<table>
<thead>
<tr>
<th>Roadway Classification</th>
<th>Storm Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country Lane</td>
<td>5 year</td>
</tr>
<tr>
<td>Local Roadway</td>
<td>10 year</td>
</tr>
<tr>
<td>Urbanized Local Roadway</td>
<td>10 year</td>
</tr>
<tr>
<td>Minor Collector</td>
<td>15 year</td>
</tr>
<tr>
<td>Major Collector</td>
<td>25 year</td>
</tr>
<tr>
<td>Minor Arterial</td>
<td>25 year</td>
</tr>
<tr>
<td>Major Arterial</td>
<td>25 year</td>
</tr>
</tbody>
</table>

(C) Unless a larger minimum size is specified by the design engineer, all driveway culverts shall be at least eighteen (18) inches in diameter.

§3.04. Conveyance of 100-Year Storm Frequency Flows
In addition to the minimum design criteria included in this Subchapter, the storm water management system shall be designed to convey all channelized or concentrated flows from a 100 year frequency storm within defined right-of-way or easements.

§3.05. Maximum Headwater Elevation for Roadway Crossings
(A) All roadways, culverts underneath roadways, and bridges shall be designed so that storm water runoff from the frequency storm event designated below crossing such roadway or bridge shall not produce a headwater elevation at the roadway greater than six (6) inches above the roadway crown elevation, nor shall it produce a design flow over the roadway at a velocity greater than ten (10) feet per second, based upon the classification of the roadway affected by the storm water management structure:

Table 731.04 – Design Storm Frequency Based on Roadway Classification

<table>
<thead>
<tr>
<th>Roadway Classification</th>
<th>Storm Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country Lane</td>
<td>25 year</td>
</tr>
<tr>
<td>Local Roadway</td>
<td>25 year</td>
</tr>
<tr>
<td>Urbanized Local Roadway</td>
<td>25 year</td>
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<tr>
<td>Minor Collector</td>
<td>25 year</td>
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<tr>
<td>Major Collector</td>
<td>100 year</td>
</tr>
<tr>
<td>Minor Arterial</td>
<td>100 year</td>
</tr>
<tr>
<td>Major Arterial</td>
<td>100 year</td>
</tr>
</tbody>
</table>

(B) A permanent depth gauge shall be placed at all roadway crossings where the 100 year frequency flow or lesser frequency is anticipated to flow over the roadway surface. The Commissioners Court may require installation of gates or warning devices at all or some of such locations.
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(C) All roadways shall be designed and constructed to withstand the impact of water being impounded adjacent to the storm water management facility up to and including the 100 year frequency.

(D) This Section does not apply to driveway culverts.

§3.06. Public Safety Considerations
All public storm water management facilities, including driveway culverts, shall be designed with public safety considerations. Public storm water management facilities constructed within Regulated Roadways shall comply with the safety standards published by the Texas Department of Transportation. All driveways shall conform to the Hays County Driveway Specifications.

§3.07. Identification of Special Flood Hazard Areas
(A) Regulatory floodplains (identified as Areas of Special Flood Hazard) and Regulatory Floodways may be defined based on available mapping.

(B) A drainage area of sixty four (64) acres or greater within a contributing watershed for which a Regulatory floodplain has not previously been identified shall require the identification of a local flood plain. For areas of flow with less than sixty four (64) acres of contributing area, the identification of a local flood plain is not required; however, any concentrated flow necessitates the dedication of a drainage easement.

(C) Development within an Area of Special Flood Hazard must conform to the requirements of Chapter 735. Only limited utility, roadway or pedestrian crossings and fences that do not obstruct flow will be permitted in the floodway.

§3.08. Completion of Drainage System Prior to Acceptance of Roadway Maintenance
No roadways will be accepted for maintenance by the County until all storm water management facilities, including drain pipes for all driveways constructed as of the acceptance date, have been installed by the Applicant or Permittee and inspected and approved by the Hays County Road Department. Permanent vegetation must be established or financial assurance must be provided to permanently stabilize any remaining areas disturbed during construction.

Sub-Chapter 4 - Areas Subject to Local Water Quality Requirements

§4.01. Compliance Required
Developments located in areas governed by the applicable water quality requirements of another jurisdiction shall identify all such requirements in their Storm Water Management Plan. The Applicant shall furnish to the County copies of all documents prepared for the development to satisfy the requirements of such other applicable water quality management requirements.

§4.02. Incorporation by Reference
Applicable storm water quality requirements adopted by other jurisdictions within Hays County are hereby incorporated into these Regulations. Compliance with these referenced requirements may be included as a special provision in any Development Authorization issued by the County.
§4.03. Notice of the Storm Water Quality Requirements of Other Jurisdictions

The following water quality requirements promulgated by other jurisdictions govern portions of Hays County:

(A) The City of Austin water quality and environmental ordinances, effective in the ETJ of the City of Austin.

(B) The City of Buda Water Quality Ordinance, effective in the ETJ of the City of Buda.

(C) The City of Dripping Springs Water Quality Ordinance, effective in the ETJ of the City of Dripping Springs.

(D) The City of Kyle Water Quality Ordinance, effective in the ETJ of the City of Kyle.

(E) The City of San Marcos Environmental Ordinances, effective in portions of the ETJ of the City of San Marcos.

(F) The Lower Colorado River Authority (LCRA) Highland Lakes Watershed Ordinance, applicable in portions of western Hays County, within the watersheds of the Highland Lakes.

(G) The TCEQ Edwards Aquifer Program, for those portions of the County designated as being within either the contributing zone or the recharge zone of the Edwards Aquifer, as adopted under Title 30, Texas Administrative Code (TAC), Chapter 213.

(H) The TCEQ Construction Site Storm Water Permitting Program, regulating all construction activities disturbing more than one (1) acre, anywhere within Hays County.

(I) The TCEQ Municipal Separate Storm Sewer System (MS4) Permitting Program, effective February 11, 2008, for those portions of the County designated as “Urbanized Areas” by the U.S. Census Bureau, as identified in the County’s “Storm Water Management Program” (SWMP) approved by the Texas Commission on Environmental Quality. Urbanized areas subject to the requirements of the SWMP are designated in the SWMP and are located in eastern Hays County, adjoining the City of Austin.

Sub-Chapter 5 - Incentives for Lots Larger Than Five Acres

§5.01. Incentives for Lots Larger than Five Acres

If the Application is for a subdivision under Chapter 705 and all Lots in the proposed subdivision are larger than five acres and restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated Development, then such subdivision shall be deemed to be in compliance with this Chapter and no additional materials need be submitted to demonstrate compliance to the Director.

(A) Notwithstanding the preceding requirements, all drainage facilities affecting Local Roadways, Urbanized Local Roadways or Minor Collectors may be designed based on a five-year frequency design storm event if all Lots in the development are restricted to one single family residence per Lot and prohibiting TCEQ Regulated Development and the design of such drainage structures is approved by the Department. All drainage construction will, however, be subject to the remainder of this Chapter.

(B) Notwithstanding the preceding requirements, all Country Lanes, Local Roadways, Urbanized Local Roadways or Minor Collectors, and culverts underneath such roadways,
Stream offsets or buffer zones shall be naturally vegetated corridors along streams and may be designed based on a ten-year storm frequency if all Lots in the development are restricted to one single family residence per Lot and prohibiting TCEQ Regulated Development and the design of such drainage structures is approved by the Department. All drainage construction will, however, be subject to the remainder of this Chapter and Chapter 731. This incentive shall not apply to bridges.

**Sub-Chapter 6 - Incentives for Water Quality Protection Features**

**§6.01. Water Quality Protection Features Encouraged**

All Applicants are encouraged to incorporate water quality protection features into the design of proposed developments in the County. Water quality features designed and constructed in accordance with this Subchapter shall qualify for economic incentives in accordance with Chapter 761.

**§6.02. Water Quality Protection Design Requirements**

The following design requirements shall apply to Applications seeking the economic incentives authorized in Chapter 761 for water quality protection features:

(A) Applications seeking the full value of the economic incentives shall incorporate sufficient non-structural and structural best management practices to achieve no net increase in both dissolved and suspended pollutant loadings as a result of the requested development activities.

(B) The Commissioners Court may authorize partial economic incentives for water quality protection measures which include a lower design threshold. The Applicant shall describe in the supplemental information the proposed design standard in sufficient detail to allow the Department to determine the relative level of water quality protection when compared to the “no net increase” design standard.

(C) All water quality protection measures shall be designed in accordance with the procedures outlined in one or more of the following:

1. The Lower Colorado River Authority “Water Quality Management Technical Criteria”;
3. The City of Austin “Drainage Criteria Manual” and “Environmental Criteria Manual”; or,
4. A water quality design procedure or criteria developed by a municipality within whose extra-territorial jurisdiction the project is located.

(D) The Application shall be supplemented with information detailing the design of the water quality protection measures and shall include pollutant loading calculations for the pre-development and post-development conditions. The site design shall include the necessary combinations of water quality protection measures to achieve the design standard utilized for the site. Water quality protection measure designs and pollutant loading calculations shall be prepared by a Texas licensed professional engineer.

**§6.03. Stream Offsets/Buffer Zones**

Stream offsets or buffer zones shall be naturally vegetated corridors along streams and watercourses, which provide for filtering/sequestering or pollutants, localized recharge to dissolved and suspended pollutant loadings as a result of the requested development and post-development conditions. The site design shall include the necessary combinations of water quality protection measures to achieve the design standard utilized for the site. Water quality protection measure designs and pollutant loading calculations shall be prepared by a Texas licensed professional engineer.

**Sub-Chapter 6 - Incentives for Water Quality Protection Features**

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1. The Lower Colorado River Authority “Water Quality Management Technical Criteria”;
3. The City of Austin “Drainage Criteria Manual” and “Environmental Criteria Manual”; or,
4. A water quality design procedure or criteria developed by a municipality within whose extra-territorial jurisdiction the project is located.

(D) The Application shall be supplemented with information detailing the design of the water quality protection measures and shall include pollutant loading calculations for the pre-development and post-development conditions. The site design shall include the necessary combinations of water quality protection measures to achieve the design standard utilized for the site. Water quality protection measure designs and pollutant loading calculations shall be prepared by a Texas licensed professional engineer.

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Stream offsets or buffer zones shall be naturally vegetated corridors along streams and watercourses, which provide for filtering/sequestering or pollutants, localized recharge to dissolved and suspended pollutant loadings as a result of the requested development and post-development conditions. The site design shall include the necessary combinations of water quality protection measures to achieve the design standard utilized for the site. Water quality protection measure designs and pollutant loading calculations shall be prepared by a Texas licensed professional engineer.
contribute to sustained base flow, flood flow attenuation, provide habitat for various plant and animal communities, and accept sheet flow from developed areas to minimize the adverse impacts of runoff. The following shall apply to stream offsets and/or buffer zones incorporated into Applications seeking the economic incentives authorized in Chapter 761:

(A) Stream buffer zones should be designated using the centerline of the active channel, with the required offsets and total widths based on the contributing drainage area, in accordance with the following table:

<table>
<thead>
<tr>
<th>Stream Contributing Area (Acres)</th>
<th>Width/Offset (feet, each side of centerline)</th>
<th>Total width (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>32 to 120</td>
<td>100</td>
<td>200</td>
</tr>
<tr>
<td>120 to 300</td>
<td>150</td>
<td>300</td>
</tr>
<tr>
<td>300 to 640</td>
<td>200</td>
<td>400</td>
</tr>
<tr>
<td>Greater than 640</td>
<td>300</td>
<td>600</td>
</tr>
</tbody>
</table>

(B) In circumstances where some natural stream features extend outside the minimum recommended buffer areas, the buffer width should be expanded based on the following conditions. These conditions should be evaluated on both sides of the stream independently, and adjustments applied to the affected areas only:

(1) Where a 100-year floodplain or flood hazard area has been identified, as outlined in Subchapter 3 of this Chapter, the buffer zone shall be expanded to encompass the 100-year floodplain plus 25 feet beyond the edge of the floodplain.

(2) When federal jurisdictional wetlands extend beyond the edge of the required buffer, the buffer zone shall be adjusted to be the extent of the wetland plus a 25-foot zone extending beyond the wetland edge.

(C) Where there is a “high bank” on one or both sides of the stream, consisting of a canyon, cliff, bluff or other similar feature, the width of the buffer zone may be reduced to accommodate this condition. If the Applicant documents that the top of the “high bank” extends more than three (3) feet above the elevation of the 100 year floodplain, the buffer zone offset on that side may be adjusted downward, but must extend at least 25 feet horizontally beyond the edge of the “high bank.”

(D) Development within the buffer zone should be avoided when possible. Other than critical crossings, utilities and transportation infrastructure shall not be located within stream buffer zones. Where the Department determines utility and transportation crossings to be critical to the development, the number and locations of these crossings shall be minimized. Where crossings are located, their design should incorporate protections from future damage to the stream from these crossings. Structural BMPs are specifically prohibited from being located within stream buffer zones.

§6.04. Control of Hydrologic Regime

The hydrologic regime represents the total volume and the rate, timing and duration of storm water runoff flows. To address adverse impacts, the following measures are required to control the rate and volume of all storm water discharges from proposed developments seeking economic incentives:
(A) Site designs shall limit flows into the receiving stream consistent with the volume from the two (2) year, three (3) hour duration rainfall by incorporating:

(1) Adequate retention capacity so that no storm water runoff is discharged for the design storm; or

(2) Adequate detention/retention facilities so that the discharge of storm water is limited to a rate equivalent to the volume of runoff from the two (2) year, three (3) hour duration rainfall evenly distributed over a twenty four (24) hour period.

(B) Drainage facilities providing discharge routes for flood flows should be sized to maintain flood flow velocities below erosive levels, up to the twenty five (25) year, three (3) hour duration. All discharge points from ponds or other accumulation areas must provide for energy dissipation prior to exiting the site, in order to minimize erosion.

§6.05. Non-Structural Best Management Practices

The Applicant may utilize non-structural best management practices (BMPs) to achieve the water quality protection design for the proposed development. Non-structural BMPs may be used in conjunction with structural BMPs. Non-structural BMPs recognized under this Subchapter for the purposes of pollutant loading demonstrations include:

(A) Landscaping, Xerascaping plans and deed restrictions;
(B) Integrated pest management plans;
(C) Integrated fertilizer/nutrient management plans; and,
(D) Roadway sweeping activities.

Additional non-structural BMPs may be utilized at the discretion of the Department.

§6.06. Structural Best Management Practices

The Applicant may utilize structural best management practices (BMPs) to achieve the water quality protection design for the proposed development. Structural BMPs may be used either alone or in conjunction with non-structural BMPs. Structural BMPs recognized under this Subchapter for the purposes of pollutant loading demonstrations include:

(A) Structural BMPs identified in any of the design criteria standards identified in Section §725.6.02; and,

(B) Structural BMPs for which the Applicant has submitted data from an independent third-party indicating satisfactory performance and which has been determined by the Department as suitable to accomplish the design objectives.
CHAPTER 727 - RESERVED
CHAPTER 729 - RESERVED

CHAPTER 729 - RESERVED
CHAPTER 731 - CONSTRUCTION AND ACCEPTANCE OF MAINTENANCE FOR PUBLIC INFRASTRUCTURE

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern the construction process for public infrastructure and the procedures and conditions for the County to accept maintenance responsibility for any public infrastructure. Public infrastructure shall include:
(A) Public roadways;
(B) Public storm water management facilities and features;
(C) Public utilities, including water and wastewater utilities; and
(D) Public safety and emergency access features.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 232 and 411.

§1.03. Approval Required
Unless interim authorization for construction is obtained under this Chapter, construction of public infrastructure shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations. Approval of the Commissioners Court is required prior to the County’s acceptance of maintenance responsibility for public infrastructure.

§1.04. Submittal Requirements for Public Infrastructure
Concurrently with the filing of an Application for a Development Authorization under these Regulations, an Applicant seeking approval to construct public infrastructure and related improvements that will be operated and maintained by the County, shall submit the following:
(A) Construction Plans for the improvements, including a certification by a Texas licensed Professional Engineer that the Construction Plans and design of the improvements are in compliance with these Regulations; and,
(B) The anticipated unit cost of each type of improvement and the total estimated construction cost of all improvements proposed to be constructed in conjunction with the development, prepared by a Texas licensed Professional Engineer.

Sub-Chapter 2 - Construction

§2.01. Approval Required Prior to Construction
(A) Unless interim authorization for construction is obtained under this Subchapter, construction of public infrastructure shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations.
(B) By submitting Construction Plans for public infrastructure, the Applicant is acknowledging that they are aware of and is representing that the Permittee will comply with all requirements of Hays County regarding construction and development in effect at the time the Application was submitted, including:

(1) the requirement regulating the access of private construction vehicles from construction sites onto existing Public roadways, requiring the Permittee to take certain steps to limit and clean all mud or other debris carried onto the public roadways by such construction vehicles and imposing fines for non-compliance;

(2) The requirements: a) that a permit be obtained prior to commencement for all construction within County right-of-way, including driveways, utilities and storm water management improvements and the cutting of any existing roadways for installation of utilities, b) that the work be inspected prior to completion, c) prohibiting cutting of certain roadways within three (3) years of construction thereof; and, d) imposing fines for non-compliance;

(3) The requirement concerning construction standards for structures projecting above the ground surface (including mailboxes, signs, etc.) installed within the right-of-way of public roadways and requiring all such structures to be made of break-away or collapsible materials, as defined by the Department; and,

(4) The requirement to comply with all construction standards and specifications adopted by the Department, as outlined in Chapter 799.

(C) The Department shall review the construction plans and cost estimates for public infrastructure submitted by the Applicant. If the Department determines that the construction plans and cost estimates comply with these Regulations, the Department shall issue a written approval of the construction plans and cost estimates. This written approval shall indicate that it is an approval of the design and construction methods only and that it is not an approval of the entire Application with which it was submitted. If the Department determines that the construction plans and cost estimates are not in compliance with these Regulations, the Department shall issue a written request for information identifying those items the Department believes are not in compliance with these Regulations, and requesting that the construction plans and/or cost estimates be revised and re-submitted.

§2.02. Interim Authorization for Construction

The following requirements shall apply to public infrastructure for which interim authorization for construction is sought prior to issuance of a Development Authorization by the County:

(A) An applicant wishing to construct public infrastructure prior to the issuance of a Development Authorization by the County shall submit a written request for interim authorization for construction. This written request shall include the project information for the original Application and shall indicate the proposed public infrastructure for which the Applicant is seeking interim authorization to construct. This request may be granted by the Department based on the Department’s review and approval of the Construction Plans and the satisfactory submittal of the financial assurance items required by this Subchapter.

(B) By submitting Construction Plans for public infrastructure, the Applicant is acknowledging that they are aware of and is representing that the Permittee will comply with all requirements of Hays County regarding construction and development in effect at the time the Application was submitted, including:

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(B) In the case of a subdivision for which the County has issued an approval of the Preliminary Plan, and for which the Department has issued an approval of the construction plans and cost estimates, the Applicant or Permittee may commence construction of public infrastructure and related improvements upon the posting of an acceptable Performance Assurance with no further approvals required.

(C) An Applicant or Permittee shall post with the Department an acceptable Performance Assurance equal to the full value (100%) of the estimated construction costs for the public infrastructure and related improvements.

(D) In the event the construction of the public infrastructure is completed prior to the County’s issuance of the Development Authorization, the Applicant or Permittee may request release of the Performance Assurance.

§2.03. Construction Occurring After Issuance of Development Authorization
The following requirements shall govern the construction of public infrastructure and related improvements that occurs following the County’s issuance of a Development Authorization:

(A) Prior to the Department’s issuance of a Development Authorization for which the construction of the public infrastructure and related improvements has not yet been completed, the Applicant or the Permittee shall post with the Department an acceptable Performance Assurance. The value of the Performance Assurance shall be equal to the full value (100%) of the estimated construction costs for the public infrastructure and related improvements.

(B) If a Development Authorization is issued prior to completion of construction of all related public infrastructure, an acknowledgment that no Development Authorization will be issued for any Lot until completion of sub-grade of the Permitted Street serving the Lot and, if applicable, installation of all underground utilities.

§2.04. Installation of Public Infrastructure Under Public Roadways
All utility lines, storm water management facilities, and other public infrastructure planned to be constructed under a new paved roadway shall be installed before the roadway is paved. All utility lines, storm water management facilities, and other public infrastructure installed under an existing paved roadway shall be bored to a point at least four (4) feet beyond the edge of the pavement and must be approved in advance by the Department, unless otherwise approved by the Commissioners Court.

§2.05. Temporary Construction Erosion Controls
All construction of roadways, whether public or private, shall comply with the Hays County Erosion and Sedimentation Control Manual adopted by the Department, as well as the applicable requirements of other jurisdictions regarding temporary erosion control measures.

§2.06. Development Authorizations within approved Subdivisions
No Development Authorization for a Lot within a subdivision for which the County has issued a Development Authorization shall be issued until the subgrade of the Regulated Roadway serving the Lot has been completed and, if applicable, the installation of all underground public infrastructure.

(B) In the case of a subdivision for which the County has issued an approval of the Preliminary Plan, and for which the Department has issued an approval of the construction plans and cost estimates, the Applicant or Permittee may commence construction of public infrastructure and related improvements upon the posting of an acceptable Performance Assurance with no further approvals required.

(C) An Applicant or Permittee shall post with the Department an acceptable Performance Assurance equal to the full value (100%) of the estimated construction costs for the public infrastructure and related improvements.

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(B) If a Development Authorization is issued prior to completion of construction of all related public infrastructure, an acknowledgment that no Development Authorization will be issued for any Lot until completion of sub-grade of the Permitted Street serving the Lot and, if applicable, installation of all underground utilities.

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§2.07. Construction Changes
Changes in the construction of public infrastructure and related improvements shall require the approval of the Department. Minor changes that do not conflict with the terms of the Development Authorization may be verbally authorized by the field inspector, with those changes subsequently documented in a field change form. For other changes, the Applicant or Permittee shall provide a written request for approval of the change to the Department. The request for the change shall be accompanied by sufficient additional information to identify the changes requested and to allow the changes to be evaluated by the Department for compliance with these Regulations. Where determined to be necessary by the Department, the changes shall be accompanied by new or revised construction plans, specifications and cost estimates prepared by a Texas licensed professional engineer. If the Department determines that the proposed construction changes result in substantive changes to the estimated construction costs, the provision of additional Performance Assurance may be required.

§2.08. Interim Inspections
The Applicant or Permittee shall provide written notice to the Department of the start of construction of public infrastructure and related improvements and shall designate in such notice a contact person to coordinate construction inspections with the Department. The Department shall conduct such interim inspections as it deems necessary. Interim inspections may be conducted without notice. Where the Applicant, Permittee or their contractors require or request inspection by the Department, a minimum of one (1) full working day’s notice is required. The Department may issue verbal or written inspection reports. The Applicant or Permittee is responsible for correcting any deficiencies noted during interim inspections.

§2.09. Final Inspection
Once construction of public infrastructure and related improvements is substantially complete, the Applicant or Permittee shall submit a written request to the Department to conduct a final inspection. This inspection shall be conducted by the Department to determine if all the public infrastructure and related improvements reflected on the construction plans have been constructed in accordance with the Regulations and the construction plans. The Applicant or Permittee is responsible for correcting any deficiencies noted during final inspections. Upon satisfactory completion of a final inspection, the Department shall issue to the Applicant and/or Permittee a written final inspection report, including any minor deficiencies or “punch list” items to be corrected prior to release of Performance Assurance and preparation of the as-built submittals. If permanent vegetation has not been established, the Applicant or Permittee must provide financial assurance to the County that would provide sufficient funds to complete revegetation.

§2.10. As-built Submittals
Following completion of the construction of public infrastructure and related improvements and a final inspection by the Department, the Applicant or Permittee shall submit to the Department:

(A) A written certification stating that the construction is “substantially complete, complies with the construction standards as established by the Hays County Development Regulations, and was completed in conformance with the approved construction plans and any approved changes,” signed by a Texas licensed professional engineer; and,
§2.11. Release of Performance Assurance

Following completion of the construction of public infrastructure and related improvements, and a final inspection by the Department, the Applicant or Permittee may submit to the Department a written request for release of the Performance Assurance. Before release of the performance assurance, the Department shall inspect the public infrastructure and related improvements and the Applicant or Permittee shall remedy all deficiencies prior to release of the performance assurance. If the deficiencies are not properly remedied, the County shall draw on the performance assurance as necessary to remedy the deficiencies. The Performance Assurance is not considered released until the County has issued a written release of such Performance Assurance. Release of the Performance Assurance shall be conditioned upon:

(A) Substantial completion of the construction;
(B) Receipt by the Department of a certificate of substantial completion and compliance, and a set of as-built plans incorporating all changes made during construction, prepared by a Texas licensed professional engineer;
(C) Satisfactory completion of all interim and the final inspections by the Department;
(D) Permanent vegetation must be established or financial assurance must be provided to permanently stabilize any remaining areas disturbed during construction;
(E) The Department submittal to the Commissioners Court of an Inspection Report stating that:
   (1) the public infrastructure, in its current condition and with no repairs, upgrades or improvements, is in compliance with the Regulations, other applicable requirements, and with the construction plans and approved changes, and,
   (2) the Department recommends release of the Performance Assurance by the Commissioners Court; and,
(F) Approval of release of the Performance Assurance by the Commissioners Court.

Sub-Chapter 3 - Acceptance of Public Infrastructure for Maintenance

§3.01. Owner’s Maintenance Responsibility

The Applicant or Permittee shall remain responsible for all maintenance and repair of planned public infrastructure and related improvements associated with a development until the County formally accepts the obligation to maintain such public infrastructure. The County’s issuance of a Development Authorization or the acceptance of a Final Plat or dedication of the right-of-way for a public roadway shall not be deemed to constitute acceptance of the public infrastructure for maintenance.

§3.02. County Acceptance of Maintenance

The County shall accept public infrastructure and related improvements when the following conditions have been satisfied:

(B) A complete set of as-built plans incorporating all changes made during construction, signed and sealed by a Texas licensed professional engineer.

§2.11. Release of Performance Assurance

Following completion of the construction of public infrastructure and related improvements, and a final inspection by the Department, the Applicant or Permittee may submit to the Department a written request for release of the Performance Assurance. Before release of the performance assurance, the Department shall inspect the public infrastructure and related improvements and the Applicant or Permittee shall remedy all deficiencies prior to release of the performance assurance. If the deficiencies are not properly remedied, the County shall draw on the performance assurance as necessary to remedy the deficiencies. The Performance Assurance is not considered released until the County has issued a written release of such Performance Assurance. Release of the Performance Assurance shall be conditioned upon:

(A) Substantial completion of the construction;
(B) Receipt by the Department of a certificate of substantial completion and compliance, and a set of as-built plans incorporating all changes made during construction, prepared by a Texas licensed professional engineer;
(C) Satisfactory completion of all interim and the final inspections by the Department;
(D) Permanent vegetation must be established or financial assurance must be provided to permanently stabilize any remaining areas disturbed during construction;
(E) The Department submittal to the Commissioners Court of an Inspection Report stating that:
   (1) the public infrastructure, in its current condition and with no repairs, upgrades or improvements, is in compliance with the Regulations, other applicable requirements, and with the construction plans and approved changes, and,
   (2) the Department recommends release of the Performance Assurance by the Commissioners Court; and,
(F) Approval of release of the Performance Assurance by the Commissioners Court.

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§3.02. County Acceptance of Maintenance

The County shall accept public infrastructure and related improvements when the following conditions have been satisfied:
The public infrastructure has been constructed in accordance with these Regulations, the Record Documents required for the public infrastructure have been recorded and the associated right-of-way has been dedicated to the public pursuant to these Regulations;

The Applicant or Permittee has submitted a written request to the Department for the County to formally accept maintenance of the public infrastructure. If the Applicant or the Permittee are no longer available, (i.e. has ceased to transact any business or, in the case of an individual, has died), the Owner(s) of the Subject Property may submit the written request;

A Texas licensed professional engineer on behalf of the Applicant or Permittee has submitted a certificate of substantial completion and compliance, and a set of as-built plans incorporating all changes made during construction;

The Department has performed and approved all required inspections;

The Department has inspected the public infrastructure and related improvements no earlier than 30 days prior to the Commissioners Court's acceptance of the maintenance obligation and has submitted to the Commissioners Court an Inspection Report stating that:

1. the public infrastructure, in its current condition and with no repairs, upgrades or improvements, is in compliance with the Regulations and all other guidelines in effect at the time of the inspection; and,

2. the Department recommends acceptance of the public infrastructure by the Commissioners Court; and,

One of the following has occurred:

3. Two (2) years has expired from the date that all public infrastructure and related improvements associated with the development were first completed and inspected by the Department; or,

4. The Permittee has posted with the Department satisfactory Maintenance Assurance to secure the proper construction and maintenance of the public infrastructure prior to County acceptance of maintenance. Maintenance Assurance must be posted, regardless of the date the public infrastructure and related improvements were completed.

§3.03. Release of Maintenance Assurance

Before release of the Maintenance Assurance, the Department shall again inspect the public improvements and the Permittee shall remedy all deficiencies prior to release of the Maintenance Assurance. If the deficiencies are not promptly remedied, the County shall make the repairs and draw on the Maintenance Assurance for payment.

Sub-Chapter 4 - Financial Assurance

§4.01. County as Beneficiary

All Financial Assurance (including Performance Assurance, Maintenance Assurance, or other financial assurance) used to satisfy these Regulations shall name the County as the beneficiary and recipient of all rights and privileges thereto.

A Texas licensed professional engineer on behalf of the Applicant or Permittee has submitted a certificate of substantial completion and compliance, and a set of as-built plans incorporating all changes made during construction;

The Department has performed and approved all required inspections;

The Department has inspected the public infrastructure and related improvements no earlier than 30 days prior to the Commissioners Court's acceptance of the maintenance obligation and has submitted to the Commissioners Court an Inspection Report stating that:

1. the public infrastructure, in its current condition and with no repairs, upgrades or improvements, is in compliance with the Regulations and all other guidelines in effect at the time of the inspection; and,

2. the Department recommends acceptance of the public infrastructure by the Commissioners Court; and,

One of the following has occurred:

3. Two (2) years has expired from the date that all public infrastructure and related improvements associated with the development were first completed and inspected by the Department; or,

4. The Permittee has posted with the Department satisfactory Maintenance Assurance to secure the proper construction and maintenance of the public infrastructure prior to County acceptance of maintenance. Maintenance Assurance must be posted, regardless of the date the public infrastructure and related improvements were completed.

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Sub-Chapter 4 - Financial Assurance

§4.01. County as Beneficiary

All Financial Assurance (including Performance Assurance, Maintenance Assurance, or other financial assurance) used to satisfy these Regulations shall name the County as the beneficiary and recipient of all rights and privileges thereto.
§4.02. Acceptable Mechanisms
Financial assurance, as required within these regulations, shall be provided using a mechanism acceptable to the County. The Department shall develop, maintain and make available to the public standard forms for this purpose. While other mechanisms may be approved for use, the following mechanisms are recognized for the purposes of these regulations:

(A) A fully funded Trust Agreement, with an entity acceptable to the County serving as Trustee;

(B) A bond issued by a surety acceptable to the County and listed as an acceptable surety on Federal bonds in Circular 570 of the United States Department of the Treasury; or,

(C) An irrevocable standby letter of credit, issued by a surety acceptable to the County.

§4.03. Performance Assurance
This section applies in instances where the Applicant or Permittee utilizes Performance Assurance to satisfy the requirements of these Regulations. The Applicant or Permittee shall continue to be responsible for all other requirements set forth in these Regulations. With the permission of the Commissioners Court, the Applicant or Permittee shall post an acceptable financial assurance mechanism in an amount equal to 100% of the estimated construction costs of the public infrastructure and related improvements. The Commissioners Court must approve each application to post such a performance assurance and the performance assurance mechanism shall remain in effect until the public infrastructure and related improvements have been accepted by the County and the Performance Assurance released pursuant to Subchapter 3.

§4.04. Maintenance Assurance
This section applies in instances where the Applicant or Permittee utilizes Maintenance Assurance to satisfy the requirements of these Regulations. The Applicant or Permittee shall continue to be responsible for all other requirements set forth in these Regulations. The Maintenance Assurance shall be provided in an amount equal to 10% of the total construction costs of the public infrastructure and related improvements. The Maintenance Assurance shall have a minimum term of two (2) years following acceptance by the County.

§4.05. County Claims Against Financial Assurance
The County may make claims against any financial assurance provided under these Regulations if it finds that the actions for which the financial assurance was provided have not been completed satisfactorily. Prior to making a claim against a financial assurance mechanism, as allowed under these Regulations, the County shall provide written notice to the Trustee or Surety of such claim, with a copy to the Applicant and Permittee, and shall allow a minimum period of fourteen (14) calendar days to remedy such claim. Claims which have not been remedied within fourteen (14) calendar days shall be immediately due and payable under the terms of the applicable financial assurance mechanism.

§4.06. Financial Assurance Mechanism Expiration and Renewal
In the event that a financial assurance mechanism submitted to the County pursuant to this Chapter expires prior to the acceptance by the County of the work assured by the financial assurance mechanism, the County may make claims against the financial assurance mechanism and the County shall notify the Applicant and Permittee of such claim. Claims which have not been remedied within fourteen (14) calendar days shall be immediately due and payable under the terms of the applicable financial assurance mechanism.
assurance mechanism, the Permittee shall submit a replacement financial assurance mechanism prior to its expiration. Such replacement financial assurance mechanisms shall comply with all the requirements of this Subchapter.
CHAPTER 732 - RESERVED

CHAPTER 732 - RESERVED
CHAPTER 733 - RESERVED

CHAPTER 733 - RESERVED
CHAPTER 734 - RESERVED
CHAPTER 735 - FLOOD DAMAGE PREVENTION

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern activities associated with development in flood hazard areas.

§1.02. Legal Authority
The Legislature of the State of Texas has in TEXAS WATER CODE ANNOTATED Sections 16.313, 16.315, and 16.318 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapter 232 and under the Texas Water Code in Chapters 26 and 35.

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

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

§1.04. Approval Required Prior to Development
Approval of the County is required prior to conducting development activities in Flood Hazard Areas, unless excluded or exempted under State law or as exempted below.

§1.05. Methods of Reducing Flood Losses
In order to accomplish its purposes, this Chapter authorizes the use of the following methods:

(A) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
Sub-Chapter 2 - Definitions Specific to This Chapter

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

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

(A) Alluvial Fan Flooding - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

(B) Apex - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

(C) Appeal Board - means the Hays County Commissioners Court.

(D) Appurtenant Structure – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

(E) Area of Future Conditions Flood Hazard – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

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

(G) Area of Special Flood Hazard - means the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A-30, AR/AE, AR/VO, AR/A, VO, V1-30, VE or V.

(H) Base Flood - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

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

(J) Breakaway Wall – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
Critical Feature - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

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

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

Existing Construction - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures.

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

Expansion to an Existing Manufactured Home Park or Subdivision - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters.
2. the unusual and rapid accumulation or runoff of surface waters from any source.
3. Flood Elevation Study – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
4. Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
5. Flood Insurance Study (FIS) – see Flood Elevation Study.
6. Floodplain or Flood-Prone Area - means any land area susceptible to being inundated by water from any source (see definition of flooding).
7. Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

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

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7. Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
Floodplain Management Regulations - means this Chapter, along with such other subdivision and development regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

Floodway – see Regulatory Floodway.

Historic Structure - means any structure that is:
1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
   a. By an approved state program as determined by the Secretary of the Interior; or,
   b. Directly by the Secretary of the Interior in states without approved programs.

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

Highest Adjacent Grade - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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   a. By an approved state program as determined by the Secretary of the Interior; or,
   b. Directly by the Secretary of the Interior in states without approved programs.

Levee - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
Levee System - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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

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

Manufactured Home Park or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

New Construction - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational Vehicle - means a vehicle which is:

1. designed to be self-propelled or permanently towable by a light duty truck; and,
2. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) any project for the improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (c)(2), (c)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
(VV) Water Surface Elevation - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Sub-Chapter 3 - General Provisions**

§3.01. Lands to Which This Chapter Applies

This Chapter shall apply to all areas of special flood hazard within the jurisdiction of Hays County, Texas.

§3.02. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study for Hays County Texas" dated February 18, 1998 with the most effective Flood Insurance Rate Maps and/or Flood Boundary- Floodway Maps (FIRM and/or FBFM) dated September 2, 2005.

§3.03. Establishment of Development Permit System

A Flood Hazard Area Permit System is hereby established to ensure compliance with the provisions of this Chapter. This system shall require an Application for a Development Authorization by the Applicant or the Permittee seeking the Development Authorization.

§3.04. Compliance

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

A county-wide application system is a necessary and reasonable action to insure that all permits for development in flood hazard areas have been obtained. The Commissioners Court through the Floodplain Administrator will develop and promulgate any/all forms as may be necessary for the implementation of this court order.

Additional floodplain data may be generated which will improve the accuracy of floodplain boundary identification. Since the County will constantly be aware of map changes and additional data, the responsibility for determining whether a property or development is within a flood hazard area must rest with the Hays County Floodplain Administrator. Flood Hazard Boundary Maps published by the Federal Insurance Administration delineate only the major flood prone areas within the County. With a County-wide review procedure, the Floodplain Administrator will be able to make recommendations for construction standards which will minimize or eliminate the possibility of damage from localized drainage problems.

§3.05. Abrogation and Greater Restrictions

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
§3.06. Interpretation
In the interpretation and application of this Chapter, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

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

§3.08. Establishment of Fees
The Commissioners Court, upon the recommendation of the Floodplain Administrator, shall establish application fees commensurate with the service rendered by the County. Development fees are payable at the time of application.

Sub-Chapter 4 - Administration

§4.01. Designation of the Floodplain Administrator
The Commissioners Court shall appoint the Floodplain Administrator to administer and implement the provisions of this Chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management. If no other individual has been appointed by the Commissioners Court, the Director of the Department, or his designee, shall serve as the Floodplain Administrator.

§4.02. Duties and Responsibilities of the Floodplain Administrator
Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(A) Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.

(B) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

(C) Review, approve or deny all applications for development permits required by adoption of this Chapter.

(D) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(E) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a flood control project, including the placement of manufactured homes, will be reasonably safe from flooding.

(C) Review, approve or deny all applications for development permits required by adoption of this Chapter.

(D) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(E) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a
mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(F) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is The Texas Commission on Environmental Quality, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(G) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(H) When base flood elevation data has not been provided in accordance with Section §735.3.02, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Subchapter 5 of this Chapter.

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

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

§4.03. Classification of Flood Hazard Area Permits

Development Authorizations issued as Flood Hazard Area Permits (FHAP) shall be classified as follows:

(A) Development located on real property for which there is no Flood Hazard area delineated shall qualify for a Class A (Exemption Certificate) FHAP. The FHAP shall state that the proposed development is located on real property that does not lie within an identified Flood Hazard Area and that the construction standards contained in this Chapter are not applicable to the proposed development. Class A FHAPs (Exemption Certificates) shall be issued by the Floodplain Administrator.

(B) Habitable structures located on real property in flood hazard areas shall require a Class B FHAP. Class C FHAPs that comply with the terms of this Chapter may be issued by the Floodplain Administrator. Variances requested in conjunction with a Class C FHAP shall require approval of the Commissioners Court.

(C) The following development activities shall qualify for the issuance of a Class C FHAP:

(1) Any developments which are located on real property in flood hazard areas which are designated as Areas of Shallow Flooding, as defined above; and/or

(2) Non-habitable structures located in flood hazard areas.
§4.04. Permit Procedures

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

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a Texas licensed professional engineer or Texas licensed architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Subchapter 5 of this Chapter;

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and,

(5) Maintain a record of all such information in accordance with Subchapter 4 of this Chapter.

(B) Approval or denial of a Flood Hazard Area Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable; and,

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(C) It shall be unlawful to use, occupy or permit the use or occupancy of any building, development, or premises or part thereof hereafter created, erected, changed, converted,
altered, or enlarged in its use or structure until a Floodplain Hazard Area Permit has been issued by the Floodplain Administrator stating that the use of the development conforms to the requirements of this Chapter.

(D) If required on the Flood Hazard Area Permit, the Applicant or Permittee shall be required to submit certification by a registered professional engineer or registered professional land surveyor that the development was accomplished in compliance with the provisions of this Chapter.

§4.05. Expiration of Flood Hazard Area Permits

Approval of a Flood Hazard Area Permit shall expire and be of no further force and effect in the event that:

(A) None of the activities authorized in the permit are commenced within one (1) year from the date of issuance; or,

(B) All of the activities authorized in the permit are not completed within two (2) years from the date of issuance.

§4.06. Variance Procedures

(A) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this Chapter.

(B) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.

(C) Any person(s) aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(E) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.

(F) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section §735.4.03(B) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(G) Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.

(H) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(I) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's

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altered, or enlarged in its use or structure until a Floodplain Hazard Area Permit has been issued by the Floodplain Administrator stating that the use of the development conforms to the requirements of this Chapter.

(D) If required on the Flood Hazard Area Permit, the Applicant or Permittee shall be required to submit certification by a registered professional engineer or registered professional land surveyor that the development was accomplished in compliance with the provisions of this Chapter.

§4.05. Expiration of Flood Hazard Area Permits

Approval of a Flood Hazard Area Permit shall expire and be of no further force and effect in the event that:

(A) None of the activities authorized in the permit are commenced within one (1) year from the date of issuance; or,

(B) All of the activities authorized in the permit are not completed within two (2) years from the date of issuance.

§4.06. Variance Procedures

(A) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this Chapter.

(B) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.

(C) Any person(s) aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(E) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.

(F) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section §735.4.03(B) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(G) Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.

(H) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(I) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's
In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

§5.01. General Standards

(A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

(J) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(K) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Section §735.4.04(B) 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.

Sub-Chapter 5 - Provisions for Flood Hazard Reduction

§5.01. General Standards

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

(A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Subchapter 3, (ii) Subchapter 4, or (iii) Subchapter 5, the following provisions are required:

(A) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation. A Texas licensed professional engineer, Texas licensed architect, or Texas licensed land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section §735.4.03 is satisfied.

(B) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least one (1) foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Texas licensed professional engineer or Texas licensed architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

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

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

(D) Manufactured Homes -

1. Require that all manufactured homes to be placed within Zone A on a community's FHB or FIRM be installed methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§5.02. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Subchapter 3, (ii) Subchapter 4, or (iii) Subchapter 5, the following provisions are required:

(A) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation. A Texas licensed professional engineer, Texas licensed architect, or Texas licensed land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section §735.4.03 is satisfied.

(B) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least one (1) foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Texas licensed professional engineer or Texas licensed architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

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

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

(D) Manufactured Homes -

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

(2) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one (1) foot above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, on all sites:

(a) outside of a manufactured home park or subdivision;
(b) in a new manufactured home park or subdivision;
(c) in an expansion to an existing manufactured home park or subdivision; or,
(d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

(3) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Section §735.5.02(D)(2) be elevated so that either: the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section §735.4.03, and the elevation and anchoring requirements for "manufactured homes" in Section §735.5.02(D)(2). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

§5.03. Standards for Subdivision Proposals

(A) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this Chapter, and shall be approved by the County Floodplain Administrator prior to issuance of the Development Authorization by the County. Plat specifications and details for submission will be governed by Chapter 705 and other applicable provisions of these Regulations.

(B) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet the requirements this Chapter.

(C) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to this Chapter.
(D) All subdivision plats shall have the Floodplain and Floodway clearly delineated on the plat and, where appropriate, shall have the lowest floor elevations for all lots located within Flood Hazard Areas.

(E) All subdivision Applications including the placement of manufactured home parks and subdivisions shall include provisions for adequate drainage as required under Chapter 725, to reduce exposure to flood hazards.

(F) All subdivision Applications including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(G) All subdivision Applications which include land which is encroached by areas of special flood hazard, must include the placement of a permanent benchmark indicating the elevation relative to mean sea level. The benchmark must be located within the platted property, and must be indicated on the subdivision plat.

§5.04. Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard as defined above are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(A) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

(B) All new construction and substantial improvements of non-residential structures:

(1) have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or,

(2) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(C) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

(D) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

§5.05. Floodways

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

(D) All subdivision plats shall have the Floodplain and Floodway clearly delineated on the plat and, where appropriate, shall have the lowest floor elevations for all lots located within Flood Hazard Areas.

(E) All subdivision Applications including the placement of manufactured home parks and subdivisions shall include provisions for adequate drainage as required under Chapter 725, to reduce exposure to flood hazards.

(F) All subdivision Applications including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(G) All subdivision Applications which include land which is encroached by areas of special flood hazard, must include the placement of a permanent benchmark indicating the elevation relative to mean sea level. The benchmark must be located within the platted property, and must be indicated on the subdivision plat.

§5.04. Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard as defined above are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(A) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

(B) All new construction and substantial improvements of non-residential structures:

(1) have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or,

(2) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(C) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

(D) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

§5.05. Floodways

Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
Penalties for Non-Compliance

§5.07

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements is subject to the following penalties:

(A) CRIMINAL PENALTY: A person who violates this Chapter is subject to a civil penalty of not more than $100 for each act of violation and for each day of violation.

(B) An offense under this Chapter is a Class C misdemeanor.

(C) Each violation of this Chapter and each day of continuing violation is a separate offense.

§5.08. ENFORCEMENT BY POLITICAL SUBDIVISION:

(A) If it appears that a person has violated, is violating, or is threatening to violate this Chapter or a rule adopted by order issued under this Chapter, a political subdivision may institute a civil suit in the appropriate court for:

(1) injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions;

(2) the assessment and recovery of the civil penalty; or

(B) If it appears that a person has violated, is violating, or is threatening to violate this Chapter or a rule adopted by order issued under this Chapter, a political subdivision may institute a civil suit in the appropriate court for:

(1) injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions;

(2) the assessment and recovery of the civil penalty; or

(C) Each violation of this Chapter and each day of continuing violation is a separate offense.
(3) both the injunctive relief and the civil penalty.

(B) On application for injunctive relief and a finding that a person has violated, is violating, or is threatening to violate this Chapter or rule adopted, or order issued under this Chapter, the court shall grant the injunctive relief that the facts warrant.

Nothing herein contained shall prevent Hays County from taking such other lawful action as is necessary to prevent or remedy any violation.
CHAPTER 740 - RESERVED
CHAPTER 741 - ON-SITE SEWAGE FACILITIES
Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern activities associated with the design, installation, maintenance and operation of any regulated on-site sewage facility (OSSF) within the jurisdiction of Hays County, and documenting and recording the requirements for these activities based on the approval of the County.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, and 234 under the Texas Water Code in Chapter 26, and under the Texas Health and Safety Code in Chapter 366, and under a delegation agreement between the County and the Texas Commission on Environmental Quality.

§1.03. Regulated OSSF
This Chapter shall apply only to on-site sewage disposal facilities in Hays County that are considered to be regulated OSSFs, meeting the following criteria:

(A) The OSSF does not treat or dispose of more than 5,000 gallons of sewage each day; and,
(B) The OSSF is used only for the disposal of sewage produced on a site where any part of the system is located.

On-site sewage disposal facilities that do not qualify as regulated OSSFs in Hays County, Texas, are under the exclusive jurisdiction of the Texas Commission on Environmental Quality. Any development relying on an on-site sewage disposal facility that is not a regulated OSSF must demonstrate wastewater availability in accordance with Chapter 715.

§1.04. Approval Required Prior to Construction
Approval of the County is required prior to the construction, alteration or modification of an OSSF, unless excluded or exempted under State law or as exempted below.

§1.05. Area of Jurisdiction
This Chapter shall apply to any OSSF in Hays County, Texas, that are located in the following regulated areas:

(A) The OSSF is located outside the extra-territorial jurisdiction of any municipality;
(B) The OSSF is located within the extra-territorial jurisdiction, but outside the incorporated limits of a municipality with whom the County does not have an inter-local agreement for the County to serve as the OSSF authorized agent.
(C) The OSSF is located with the jurisdictional limits (either incorporated limits or ETJ) of a municipality that has executed an agreement with Hays County, Texas, for the County to serve as the OSSF authorized agent for that municipality.

This Chapter shall not apply to any OSSF in Hays County, Texas, that is within an area regulated under an existing program under TCEQ delegation, including areas within incorporated cities.
§2.01. Category of Offense
An offense under this Chapter is a Class C misdemeanor punishable by fine. This provision shall supersede the reference in Section 701.13.02.

§2.02. Duties and Powers
The Director of the Department, or any other individual(s) approved by the Commissioners Court, are herewith declared the designated representative(s), as defined in the regulations of the Texas Commission on Environmental Quality, for the enforcement of this Chapter within the jurisdictional area of Hays County. The appointed individual(s) must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the Designated Representative of Hays County.

§2.03. Relinquishment of Order
If the Commissioners Court of Hays County, Texas, decides that it no longer wishes to regulate on-site sewage facilities in its areas of jurisdiction, the Commissioners Court shall follow the procedures outlined below, prior to discontinuing such regulation:

(A) The Commissioners Court shall inform the Texas Commission on Environmental Quality by certified mail at least thirty (30) days before the published date of the public hearing at which the Commissioners Court will consider relinquishing its regulation of On-Site Sewage Facilities. This notice shall comply with the requirements for delivery of Written Notice in Chapter 701.

(B) The Commissioners Court shall cause to have published the required public notice in a newspaper regularly published or circulated in the area of jurisdiction at least thirty (30) days prior to the anticipated date of action by the Commissioners Court. This notice shall comply with the general requirements for Published Notice in Chapter 701.

(C) The authorized agent shall send a copy of the Published Notice, a publisher's affidavit of the published notice, and a certified copy of the minutes of the Commissioners Court meeting at which the regulations of OSSFs was discontinued to the Texas Commission on Environmental Quality.

(D) The executive director of the TCEQ shall process the request for relinquishment and may issue an order relinquishing its regulation of On-Site Sewage Facilities. This notice shall comply with the requirements for delivery of Written Notice in Chapter 701.

(E) Prior to issuance of a relinquishment order the Commissioners Court and the executive director shall determine the exact date the County would surrender its authorized agent designation to the executive director.

§2.04. Effective Date
This Chapter shall be in full force and effect from and after its date of approval as required by law and upon the approval of the Texas Commission on Environmental Quality (TCEQ).
§2.05. Transfer of Program Responsibility

OSSF Permits issued by Hays County may be transferred to another authorized agent for oversight and enforcement. Such transfers shall be subject to the following conditions:

(A) Transfers resulting from the assumption of program responsibilities by the TCEQ, under §741.2.03, shall take place upon the effective date of the assumption of the program by TCEQ.

(B) Transfers resulting from an annexation by a municipality that is also an authorized agent shall take place upon the effective date of transfer of program responsibility from the County to the municipality.

(C) Until the effective date of transfer of program responsibility, the Permittee shall comply with all requirements of these Regulations and the OSSF permit, including the payment of all fees.

Sub-Chapter 3 - Definitions Specific to This Chapter

For the purposes of this Chapter, the following terms shall have the corresponding meaning:

(A) Dwelling Unit Equivalent – An estimated quantity of wastewater from a non-residential source that is equivalent to that generated from a three (3) bedroom residential dwelling unit, or 300 gallons per day, whichever is greater.

(B) Qualified OSSF Inspector – An individual with a current license from the TCEQ as an Installer or a Maintenance Provider, as those terms are defined under 30 TAC Chapter 285. Texas licensed professional engineers and Texas registered sanitarians may also inspect OSSFs, subject to the requirements of 30 TAC Chapter 285.

Sub-Chapter 4 - Application Procedures

§4.01. General Requirements and Application Procedures

Applications to the County for approval of OSSFs pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapters 701 and 711 of these regulations.

§4.02. Fees

Fees for Applications for OSSF approvals shall be based on the type of system proposed and the nature of the development the OSSF will serve. Such fees shall be established by the Commissioners Court. Additional fees for reviews, inspections and related items shall be as established by the Commissioners Court under Chapter 701. Fees paid to the County are non-refundable except as allowed under Chapter 701.

§4.03. Application and Permit Procedures

Applications for approvals issued under this chapter shall be reviewed, processed and issued under Chapter 711 of these Regulations. Site evaluation, planning and compliance documentation shall be submitted in a format acceptable to the Department.
**Sub-Chapter 5 - Adoptions and Incorporations**

§5.01. Adopting Chapter 366 of the Texas Health and Safety Code

The Commissioners Court does hereby adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code (TH&SC), subject to the amendments set forth in Subchapter 6 of this Chapter.

§5.02. Adopting Chapters 7 and 37 of the Texas Water Code

The Commissioners Court does hereby adopt and will fully enforce Chapters 7 and 37 of the Texas Water Code (TWC), subject to the amendments set forth in Subchapter 6 of this Chapter.

§5.03. Adopting the On-Site Sewage Facility Rules of the TCEQ

The regulations promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities, as codified in Title 30, Texas Administrative Code (TAC) Chapters 30 and 285 are hereby adopted, subject to the amendments set forth in Subchapter 6 of this Chapter. These regulations and all future amendments and revisions thereto are hereby incorporated by reference and are thus made a part of these Regulations.

**Sub-Chapter 6 - OSSF Classifications**

The following OSSF classifications are recognized under this Chapter:

§6.01. Grandfathered System

(A) A grandfathered system is an OSSF meeting all of the following criteria:

1. The OSSF manages no more than 5,000 gallons of sewage per day;
2. The OSSF was either existing prior to the County’s initial regulation of OSSFs or was permitted prior to the effective date of these regulations; and,
3. The OSSF is subject only to on-going maintenance as that term in defined in 30 TAC 285.

(B) Any maintenance, alteration, modification or change in type of use of the OSSF other than maintenance as that term is defined in 30 TAC 285, shall disqualify an OSSF from classification as a grandfathered system.

§6.02. Conventional System

The term “Conventional System” means on-site sewerage facilities, including septic tanks, sewage holding tanks, chemical toilets, treatment tanks and all other such facilities and systems consisting of a standard treatment system, as defined under 30 TAC §285.32(b), and an effluent dispersal system that does not use a pressurized method to uniformly distribute effluent over the entire disposal/dispersal area, and managing no more than 5,000 gallons of sewage per day.

§6.03. Advanced System

The term “Advanced System” means an on-site system of sewage treatment and disposal other than a conventional system producing no more than 5,000 gallons of sewage per day, which has been permitted by the Department, and includes an intermittent sand filter, a proprietary treatment system, as defined under 30 TAC §285.32(c), a non-standard treatment system, as defined under 30 TAC §285.32(d), other secondary treatment systems, or a standard treatment system, as defined under 30 TAC §285.32(e), and an effluent dispersal system that does not use a pressurized method to uniformly distribute effluent over the entire disposal/dispersal area, and managing no more than 5,000 gallons of sewage per day.

§5.01. Adopting Chapter 366 of the Texas Health and Safety Code

The Commissioners Court does hereby adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code (TH&SC), subject to the amendments set forth in Subchapter 6 of this Chapter.

§5.02. Adopting Chapters 7 and 37 of the Texas Water Code

The Commissioners Court does hereby adopt and will fully enforce Chapters 7 and 37 of the Texas Water Code (TWC), subject to the amendments set forth in Subchapter 6 of this Chapter.

§5.03. Adopting the On-Site Sewage Facility Rules of the TCEQ

The regulations promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities, as codified in Title 30, Texas Administrative Code (TAC) Chapters 30 and 285 are hereby adopted, subject to the amendments set forth in Subchapter 6 of this Chapter. These regulations and all future amendments and revisions thereto are hereby incorporated by reference and are thus made a part of these Regulations.

**Sub-Chapter 6 - OSSF Classifications**

The following OSSF classifications are recognized under this Chapter:

§6.01. Grandfathered System

(A) A grandfathered system is an OSSF meeting all of the following criteria:

1. The OSSF manages no more than 5,000 gallons of sewage per day;
2. The OSSF was either existing prior to the County’s initial regulation of OSSFs or was permitted prior to the effective date of these regulations; and,
3. The OSSF is subject only to on-going maintenance as that term in defined in 30 TAC 285.

(B) Any maintenance, alteration, modification or change in type of use of the OSSF other than maintenance as that term is defined in 30 TAC 285, shall disqualify an OSSF from classification as a grandfathered system.

§6.02. Conventional System

The term “Conventional System” means on-site sewerage facilities, including septic tanks, sewage holding tanks, chemical toilets, treatment tanks and all other such facilities and systems consisting of a standard treatment system, as defined under 30 TAC §285.32(b), and an effluent dispersal system that does not use a pressurized method to uniformly distribute effluent over the entire disposal/dispersal area, and managing no more than 5,000 gallons of sewage per day.

§6.03. Advanced System

The term “Advanced System” means an on-site system of sewage treatment and disposal other than a conventional system producing no more than 5,000 gallons of sewage per day, which has been permitted by the Department, and includes an intermittent sand filter, a proprietary treatment system, as defined under 30 TAC §285.32(c), a non-standard treatment system, as defined under 30 TAC §285.32(d), other secondary treatment systems, or a standard treatment system, as defined under 30 TAC §285.32(e), and an effluent dispersal system that does not use a pressurized method to uniformly distribute effluent over the entire disposal/dispersal area, and managing no more than 5,000 gallons of sewage per day.
system followed by a dispersal system that uses a pressurized method to uniformly distribute the effluent over the entire disposal/dispersal area.

**Sub-Chapter 7 - Planning and Evaluation Materials**

### §7.01. Site Evaluation Materials

The site evaluation materials recognized under this Chapter are those described in 30 TAC §285.30 of the TCEQ Regulations.

### §7.02. Site Specific Materials

The facility planning materials recognized under this Chapter are those described in 30 TAC §285.4 of the TCEQ Regulations and, if applicable, 30 TAC Sections §285.5, §285.6, §285.7 and §285.40 of the TCEQ Regulations.

### §7.03. Preparation of Site Evaluation and Planning Materials

Site Evaluation and Planning materials recognized under this Chapter may be prepared by a TCEQ licensed site evaluator, a Texas registered professional sanitarian or by a Texas licensed professional engineer, as authorized under 30 TAC §285.

**Sub-Chapter 8 - Amendments**

The County of Hays, Texas, wishing to adopt more stringent Rules for its On-Site Sewage Facilities, understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirements if local rules provide greater public health and safety protection. Listed below are the more stringent Rules adopted by Hays County, Texas.

### §8.01. Facility Planning

All of the terms and provisions of 30 TAC §285.4 are incorporated within the Rules of Hays County except as expressly amended below.

(A) Land Planning, Site Evaluation and Minimum Lot Sizing:

The following requirements shall apply to all lots on which an OSSF is to be utilized:

1. A platted or unplatted single family residential lot shall have a surface area of at least the acreage designated in Table 741.05, below.

2. Small Multi-Unit Residential Developments. Multi-unit residential developments with four or fewer individual dwelling units, including duplexes, may utilize lots smaller than the acreages set forth in Sections §741.8.01(A)(1), provided:
   
   - (a) site specific evaluation materials, for a central system or individual systems, are prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian and submitted to the Department for review and approval; and,
   
   - (b) there is no more than one (1) dwelling unit for each TCEQ minimum lot acreage as designated in Table 741.05, below.

3. Other Multi-unit Residential Developments and Non-Residential Developments. Platted or unplatted lots used for multi-unit residential developments with more than four
dwelling units, including apartment complexes, groups of rental dwelling units and lots used for non-residential purposes (e.g. office, commercial, industrial or institutional uses) producing domestic wastewater:

(a) shall have a minimum lot size of 1.0 acres and a total surface acreage of at least one (1) acre for each dwelling unit equivalent (DUE) per day; and,

(b) the on-site sewage facilities for these developments shall be designed based on site specific evaluation materials.

(4) OSSFs serving Manufactured Home Rental Communities and Recreational Vehicle Parks where spaces are rented or leased and are not subdivided for individual sale may be designed in accordance with §741.8.01(A)(3).

(5) Condominium Complexes. Condominium complexes utilizing on-site sewage facilities shall meet the following requirements:

(a) The applicant for the OSSF permit shall identify the person who will be legally responsible for compliance with all applicable OSSF requirements. The application for OSSF permit shall include a sworn (notarized) statement from such legally responsible person attesting that such person accepts full legal responsibility for compliance with all applicable OSSF requirements. In the event the designated legally responsible party fails or refuses to comply with any applicable OSSF requirements, the Department may institute appropriate enforcement action against that person, or against one or more of the following parties who the Department determines to be responsible for the noncompliance: (i) the owner or manager of the condominium complex; (ii) the owner of one or more individual condominium units; (iii) the legally constituted condominium owners association for that condominium; (iv) a maintenance company contracted to provide maintenance for the noncompliant OSSF.

(b) All requirements set forth in Section 741.8.01(A)(3) apply to condominium complexes.

(c) Each individual condominium unit shall be equipped with a flow meter capable of measuring the wastewater flow from that unit or a flow meter capable of measuring the water usage for that unit.

(d) Maintenance of the OSSF for a condominium complex is subject to the applicable maintenance, testing and reporting requirements of TCEQ’s Chapter 285 Rules and all maintenance shall be provided by a Maintenance Company registered with TCEQ under such rules.

(6) In instances where a minimum lot size from both this Chapter and Chapter 705 apply, or where multiple sources of water apply to one lot, the larger of the two (2) minimum lot sizes shall govern.

(7) In instances where the actual design of the OSSF system proposed for use dictates a larger minimum lot size required, such larger minimum lot size shall apply.

(B) Lot Size Averaging. Only platted development may take advantage of these averaging provisions. The minimum acreage requirements set forth in Table 741.05 below may be obtained by averaging the size of all Lots within a platted development so long as the

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only Lots with acreage exceeding the minimum set forth in such table that may be included in the averaging calculation shall be:

(1) Lots reserved by plat note for use as parkland or open space, or a private greenbelt in which all owners or residents of the subdivision hold an equal, unrestricted and indivisible right of access and use; or,

(2) Lots larger than five acres restricted by a plat note prohibiting all development other than one Single Family Residence or other development excluded from the term "Regulated Activities" under the Edwards Aquifer Rules of the TCEQ (30 TAC Chapter 213), but without regard to the aquifer over which the development occurs.

(C) Notwithstanding the averaging allowed above or anything else to the contrary in this Chapter, no on-site sewage facility shall be permitted on any Lot smaller than the minimum lot size permitted under Chapter 366 of the Texas Health and Safety Code and the TCEQ Regulations promulgated thereunder (30 TAC Chapter 285).

Table 741.05 – Minimum Lot Sizes (in Acres) for OSSFs

<table>
<thead>
<tr>
<th>Location</th>
<th>Water Service</th>
<th>Advanced</th>
<th>Conventional</th>
<th>TCEQ Min.</th>
</tr>
</thead>
<tbody>
<tr>
<td>EARZ [1]</td>
<td>Other Water Supply System</td>
<td>1.50</td>
<td>2.00</td>
<td>1.00 [4]</td>
</tr>
<tr>
<td>EACZ</td>
<td>Public Local Groundwater Supply System[2,8]</td>
<td>2.50</td>
<td>4.50</td>
<td>1.00 [4]</td>
</tr>
<tr>
<td>EACZ</td>
<td>Any Other</td>
<td>3.00</td>
<td>5.00</td>
<td>1.00 [4,6]</td>
</tr>
<tr>
<td>EACZ [3]</td>
<td>Other Water Supply System</td>
<td>1.00</td>
<td>1.50</td>
<td>0.50 [5]</td>
</tr>
<tr>
<td>EACZ</td>
<td>Public Local Groundwater Supply System</td>
<td>1.50</td>
<td>2.50</td>
<td>0.50 [5]</td>
</tr>
<tr>
<td>EACZ</td>
<td>Any Other</td>
<td>2.00</td>
<td>6.00[9]</td>
<td>3.00</td>
</tr>
<tr>
<td>Any Other</td>
<td>Public Local Groundwater Supply System</td>
<td>0.50</td>
<td>1.00 [7]</td>
<td>1.00</td>
</tr>
<tr>
<td>Any Other</td>
<td>Any Other</td>
<td>1.00</td>
<td>1.50</td>
<td>0.50 [5]</td>
</tr>
</tbody>
</table>

Notes:
1. Edwards Aquifer Recharge Zone as defined in 30 TAC §213
2. A Public System is a Public Water System as defined in 30 TAC §290
3. Edwards Aquifer Contributing Zone as defined in 30 TAC §213
4. TCEQ Minimum lot size as per 30 TAC §285.40(c)
5. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(A)
6. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(B)
7. Minimum lot size for use of surface application system as per 30 TAC §285.33(d)(2)
8. See Chapter 715 for definition of a Local Groundwater Supply System
9. Applicable to new subdivisions and Manufactured Home Rental Communities served by individual private water wells located within the Priority Groundwater Management Area and required to demonstrate water availability under Chapter 715, except as modified under §715.3.06(D)

only Lots with acreage exceeding the minimum set forth in such table that may be included in the averaging calculation shall be:

(1) Lots reserved by plat note for use as parkland or open space, or a private greenbelt in which all owners or residents of the subdivision hold an equal, unrestricted and indivisible right of access and use; or,

(2) Lots larger than five acres restricted by a plat note prohibiting all development other than one Single Family Residence or other development excluded from the term "Regulated Activities" under the Edwards Aquifer Rules of the TCEQ (30 TAC Chapter 213), but without regard to the aquifer over which the development occurs.

(C) Notwithstanding the averaging allowed above or anything else to the contrary in this Chapter, no on-site sewage facility shall be permitted on any Lot smaller than the minimum lot size permitted under Chapter 366 of the Texas Health and Safety Code and the TCEQ Regulations promulgated thereunder (30 TAC Chapter 285).

Table 741.05 – Minimum Lot Sizes (in Acres) for OSSFs

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<tr>
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<th>Conventional</th>
<th>TCEQ Min.</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Other Water Supply System</td>
<td>1.50</td>
<td>2.00</td>
<td>1.00 [4]</td>
</tr>
<tr>
<td>EACZ</td>
<td>Public Local Groundwater Supply System[2,8]</td>
<td>2.50</td>
<td>4.50</td>
<td>1.00 [4]</td>
</tr>
<tr>
<td>EACZ</td>
<td>Any Other</td>
<td>3.00</td>
<td>5.00</td>
<td>1.00 [4,6]</td>
</tr>
<tr>
<td>EACZ [3]</td>
<td>Other Water Supply System</td>
<td>1.00</td>
<td>1.50</td>
<td>0.50 [5]</td>
</tr>
<tr>
<td>EACZ</td>
<td>Public Local Groundwater Supply System</td>
<td>1.50</td>
<td>2.50</td>
<td>0.50 [5]</td>
</tr>
<tr>
<td>EACZ</td>
<td>Any Other</td>
<td>2.00</td>
<td>6.00[9]</td>
<td>3.00</td>
</tr>
<tr>
<td>Any Other</td>
<td>Public Local Groundwater Supply System</td>
<td>0.50</td>
<td>1.00 [7]</td>
<td>1.00</td>
</tr>
<tr>
<td>Any Other</td>
<td>Any Other</td>
<td>1.00</td>
<td>1.50</td>
<td>0.50 [5]</td>
</tr>
</tbody>
</table>

Notes:
1. Edwards Aquifer Recharge Zone as defined in 30 TAC §213
2. A Public System is a Public Water System as defined in 30 TAC §290
3. Edwards Aquifer Contributing Zone as defined in 30 TAC §213
4. TCEQ Minimum lot size as per 30 TAC §285.40(c)
5. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(A)
6. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(B)
7. Minimum lot size for use of surface application system as per 30 TAC §285.33(d)(2)
8. See Chapter 715 for definition of a Local Groundwater Supply System
9. Applicable to new subdivisions and Manufactured Home Rental Communities served by individual private water wells located within the Priority Groundwater Management Area and required to demonstrate water availability under Chapter 715, except as modified under §715.3.06(D)
(D) A lot may contain multiple habitable structures and qualify as a single family residential lot if it meets the following criteria:

1. In addition to the primary dwelling unit, the lot may be occupied by additional habitable structures or dwelling units (e.g. garage apartments, pool houses, guest cottages, etc.) with useable floor space less than fifty percent (50%) of the floor space of the primary dwelling unit;

2. The additional habitable structures are not offered for public use or rental; and,

3. All such additional habitable structures are precluded from sale or transfer separate from the primary dwelling unit.

(E) Existing small lots or tracts that do not meet the minimum lot size requirements of this section and will serve one single family dwelling may be approved for an OSSF in accordance with the following requirements:

1. Any lot, regardless of the date of platting or subdivision, must be of adequate size to accommodate the proposed system, including an effluent dispersal area that complies with effluent loading requirements of 30 TAC §285.91, Table I, and the system must be designed and operated in accordance with the remaining requirements of 30 TAC §285.

2. For lots or tracts platted or subdivided before March 14, 1977, an OSSF may be permitted on a lot of any size.

3. For lots or tracts platted or subdivided on or after March 14, 1977, but before June 14, 1984, an OSSF may be permitted on a lot with a minimum size in compliance with 30 TAC §285.4 or §285.40, as applicable, which meets the requirements of 30 TAC §285.31.

4. For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997;

   a. If the lot has a soil depth of less than four (4) feet to bedrock or to groundwater or if the percolation rate exceeds forty five (45) minutes per one (1) inch, the minimum lot size shall be thirty thousand (30,000) square feet; or,

   b. If the lot has a soil depth of less than four (4) feet to bedrock or to groundwater and a percolation rate exceeding forty five (45) minutes per one (1) inch, the minimum lot size shall be forty thousand (40,000) square feet.

5. For lots or tracts platted or subdivided on or after June 15, 1997, an OSSF may be permitted on a lot with a minimum size in compliance with 30 TAC §285.4 or §285.40, as applicable, which meets the requirements of 30 TAC §285.31 and the Hays County Regulations that were in effect at the time.

6. For lots or tracts platted or subdivided on or after August 29, 1997, and before the effective date of this Chapter, an OSSF may be permitted on a lot with a minimum size in accordance with Table 741.06, which meets the requirements of 30 TAC §285.31.

Table 741.06 – Minimum Lot Sizes (in Acres) for OSSFs (Platted 1997 to 2009)

<table>
<thead>
<tr>
<th>Location</th>
<th>Water Service</th>
<th>Advanced</th>
<th>Conventional</th>
</tr>
</thead>
<tbody>
<tr>
<td>EARZ</td>
<td>Other Water Supply</td>
<td>1.50</td>
<td>2.00</td>
</tr>
</tbody>
</table>

(Hays County Development Regulations Adoption Version – August 18, 2009)
(7) Lots platted prior to the effective date of these regulations shall comply with either the minimum separation distances that were in effect at the time the lot was platted or the minimum separate distances contained in the TCEQ Rules, whichever is more stringent.

§8.02. Minimum Required Separation Distances for On-Site Sewage Facilities.

The minimum separation distances set forth in Table X of the TCEQ Rules (specifically 30 TAC §285.91) are supplemented as follows for lots created after the effective date of these Regulations:

Table 741.07 – Minimum Receptor Separation Distances (in Feet)

<table>
<thead>
<tr>
<th>Features/Receptors</th>
<th>OSSF Component</th>
<th>Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barton Creek, Bear Creek, Blanco River, Cottonwood Creek, Cypress Creek, Little</td>
<td>Effluent dispersal areas</td>
<td>150</td>
</tr>
<tr>
<td>Bear Creek, Lone Man Creek, Long Branch, Onion Creek, Purgatory Creek, Roy Creek,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>San Marcos River, Sink Creek, Smith Creek, Willow Creek, and Wilson Creek</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(measured from the bank at average pool height)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property lines, habitable structures and vegetable gardens or orchards producing</td>
<td>Surface Application Areas</td>
<td>40</td>
</tr>
<tr>
<td>food for human consumption</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property lines, habitable structures and vegetable gardens or orchards producing</td>
<td>Individual Sprinkler Heads of Surface</td>
<td>60* (See</td>
</tr>
<tr>
<td>food for human consumption</td>
<td>Application Areas</td>
<td>Table</td>
</tr>
<tr>
<td></td>
<td></td>
<td>741.08.06</td>
</tr>
</tbody>
</table>
§8.03. Water Well Sanitary Easements.

(A) Individual Lots in which a Private Well is to be located shall provide, within the boundary of each Lot, an area with a one hundred (100) foot radius around the well in which no on-site sewage effluent dispersal facility may be located. This area shall be designated as a private water well setback and shall be clearly shown and labeled on any planning material submitted to the Department in support of an application for an on-site sewage facility permit. Variances from the Private Well setback requirement will be considered if the Private Well has been or will be completed in accordance with requirements outlined in the Water Well Drillers and Water Well Pump Installers Rules under 16 TAC Chapter 76, or the applicable rules of the groundwater conservation district that has jurisdiction over the area where the Private Well and the on-site sewage facility are located. In no case shall the Private Well setback distance be less than 50 feet.

(B) Individual Lots where there is a known or recorded water supply well (either public or private) or individual lots which adjoin a lot or tract containing either a public or private water supply well shall provide, within the boundary of the Lot on which the OSSF is to be placed, adequate separation to ensure a minimum of a one hundred fifty (150) foot radius around the water supply well in which no OSSF effluent disposal facilities may be located. For public water supply wells, this area shall be designated as a water well sanitary control easement.

(C) Public Water Wells shall comply with the sanitary control easements required under 30 TAC Chapter 290, as amended.

§8.04. Cluster and Innovative Development

Cluster development and innovative development, such as “planned unit development” style developments, are encouraged and will be considered on a case by case basis, upon the submission of the following with a preliminary plan application for subdivision approval:

(A) Site Evaluation Materials demonstrating that such a cluster or innovative development is appropriate in light of lot sizes, soil or other conditions;

(B) Site Specific Materials; and,

(C) Site Plan to be recorded with Record Plat, which shall state the future development of the Property shall be in accordance with the Site Plan. The Site Plan shall designate the type of development permitted on each Lot, the location of buildings, paved areas, green belts
and on-site sewage facilities (including drainage fields) on each Lot; and All other materials required under Sections 285.6 and 285.30 of the Rules, as applicable.

The Commissioners Court may approve an application for cluster or innovative development permitting minimum lot acreage below those required in Chapter 701, Subchapter 8 upon a finding that the proposed development will provide equivalent protection of the public health and environment as development in accordance with this Chapter and the remainder of these Regulations.

§8.05. Variances.
Requests for variances from the requirements of this Chapter shall be considered in accordance with the general variance requirements in Chapter 701, with the criteria specified in 30 TAC §285.3(h) of the TCEQ’s Rules and the following additional criteria:
(A) Only lots platted in accordance with these Regulations or any prior regulations of Hays County or legally in existence prior to the Effective Date of Chapter will be eligible for a variance;
(B) For variance requests addressing effluent disposal/dispersal, Site Specific Evaluation Materials must be submitted with the preliminary plan application for each lot for which a variance is sought, with detailed soil profile analysis of the proposed dispersal field site demonstrating existing or proposed soil characteristics that meet or exceed the criteria for suitable soils set forth in 30 TAC §285.91, Table XIII, of the TCEQ Rules; and,
(C) As authorized under Chapter 701, Subchapter 8, the Commissioners Court may delegate to the Department the discretion to approve or deny an application for a variance. Within that discretion, the Department may approve an application for a variance only upon a finding that development pursuant to the proposed variance will provide equivalent protection of the public health and environment as development in strict accordance with this Chapter and these Regulations in general;

§8.06. Permitting Procedures and Additional Requirements
The Hays County Commissioners Court and/or the Department may from time to time adopt local procedural requirements for applications, permitting and inspections for On-Site Sewage Facilities.

§8.07. Amendment to Section 285.5 (Submittal Requirements for Planning Materials)
The following requirements for the submission of planning materials are imposed in addition to those set forth in Section 30 TAC §285.5:
(A) All site plans shall be submitted to a standard engineering scale and shall include an overall site plan drawn on a single sheet of paper, providing the exact placement of all existing and proposed development, wells (including wells on adjacent property), driveways, and all wastewater system components and showing features that require minimum separation distances and topographic lines at one foot intervals in the area of the proposed OSSF and extending twenty five (25) feet past OSSF location.
(B) A flow diagram of the tank battery shall be prepared.
§8.08. Amendment to Section 285.7 (Additional Requirements for Surface Application Systems)

In addition to the permits issued for installation, licenses to operate an On-Site Sewage Facility utilizing surface application or an OSSF that requires a maintenance contract under TCEQ Regulations (30 TAC §285) or these Regulations shall be issued by the Department and shall be valid for two years. The Owner of the On-Site Sewage Facility shall be responsible for processing a renewal application for the renewal of the license prior to the expiration date of the current license.

In addition to the maintenance requirements of the TCEQ Regulations (30 TAC §285), the County specifically prescribes that all maintenance activities on OSSFs be performed only by individuals and firms licensed by the TCEQ to perform maintenance on OSSFs, as discussed in §741.8.18.

The following requirements for maintenance contracts are imposed in addition to those set forth in the TCEQ Regulations [specifically 30 TAC §285.7(c)]. All maintenance contracts shall include the following information: permit number; on-site sewage facility or wastewater operator license identification; the printed name and signature of the system owner and maintenance company representative; the starting and ending dates of the contract with the starting being the date of the notice of approval to operate; the physical address and phone number of the system location; and the physical address, business address, business phone number and emergency phone number of the maintenance company.

§8.09. Amendment to Section 285.7(d)(2) (Weather Resistant Tags)

The following requirements for weather resistant tags are imposed in addition to those set forth in the TCEQ Regulations [specifically 30 TAC §285.7(d)(2)]:

(A) The weather resistant tags shall be approved by the Department in advance of their installation;
§8.10. Amendment to Section 285.32 (Criteria for Sewage Treatment Systems)

(A) The following requirements for OSSFs other than residential OSSFs (non-residential OSSFs) are imposed in addition to those set forth in 30 TAC §285.32:

(1) For Non-Residential OSSFs, the site specific evaluation materials, prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian, must include hydraulic loading calculations and influent and effluent wastewater strength calculations.

(2) Non-Residential OSSFs shall include a hydraulic equalization tank prior to the treatment system. The hydraulic equalization tank shall be designed with sufficient storage to ensure that there is at least one day’s flow (at the average daily design flow) between the pump-on level and alarm activation level, and one-day’s flow above the alarm activation level and below the inlet of the tank, unless duplex pumps are used and designed in accordance with 30 TAC §285.34(b)(3). The rate of flow from the hydraulic equalization tank into the treatment system shall be controlled to uniformly distribute the flow over a twenty four (24) hour period at a rate no greater than the maximum design capacity of the treatment system. In cases where Non-residential OSSFs are expected to have peak flows that exceed the average daily design flow, the Department will require an Applicant to submit calculations of sufficient storage in conjunction with the other Planning Materials required for the design of the system.

(B) The following requirements for proprietary treatment systems are imposed in addition to those set forth in Section 285.32(c):

(1) Approved Proprietary Treatment Systems (including aerobic treatment units) may be considered Proprietary Treatment System only for those service conditions for which the approval was obtained. Proprietary Treatment Systems used under other service conditions shall be considered Non-Standard Treatment Systems.

(2) All disinfection devices must be listed by the NSF as having passed NSF/ANSI Standard 46 for effluent disinfection devices, or be manufactured or approved by the manufacturer of the treatment unit. Should the treatment unit be upgraded or altered, the disinfection device shall be re-evaluated and shall be upgraded, if necessary, to a device that meets the NSF/ANSI Standard 46 requirements, or to one that is manufactured by the manufacturer of the treatment unit.

(3) All aerobic treatment units (ATUs) shall be installed with a pre-treatment tank. The pretreatment tank shall be sized at a capacity of at least one-half the average daily design flow, but no greater than one full day’s flow. The pretreatment tank shall be designed in accordance with the requirements of 30 TAC §285.32(b)(1)(G).

(4) All aerobic treatment units shall be buried in the ground and backfilled to the lid of the tank.

(C) The following requirements for Non-Standard Treatment Systems are imposed in addition to those set forth in 30 TAC §285.32(d):

(1) All disinfection devices must be listed by the NSF as having passed NSF/ANSI Standard 46 for effluent disinfection devices, or be manufactured or approved by the manufacturer of the treatment unit. Should the treatment unit be upgraded or altered, the disinfection device shall be re-evaluated and shall be upgraded, if necessary, to a device that meets the NSF/ANSI Standard 46 requirements, or to one that is manufactured by the manufacturer of the treatment unit.

(2) All aerobic treatment units (ATUs) shall be installed with a pre-treatment tank. The pretreatment tank shall be sized at a capacity of at least one-half the average daily design flow, but no greater than one full day’s flow. The pretreatment tank shall be designed in accordance with the requirements of 30 TAC §285.32(b)(1)(G).

(4) All aerobic treatment units shall be buried in the ground and backfilled to the lid of the tank.

(C) The following requirements for Non-Standard Treatment Systems are imposed in addition to those set forth in 30 TAC §285.32(d):
The following requirements are imposed in addition to those set forth in Section 285.7 for an On-Site Sewage Facility utilizing surface application systems:

(A) Surface application shall be limited to sprinkler application only.

(B) All On-Site Sewage Facilities utilizing surface application shall be designed to facilitate periodic sampling.

(C) The site for a surface application system shall be cleared of exposed rock, or the exposed rock shall be covered with at least four (4) inches of soil of suitable composition to support vegetative growth.

(D) The individual sprinkler heads installed for a surface application area shall have a maximum operating height of twenty four (24) inches and a maximum operating pressure of forty (40) pounds per square inch. The receptor (property line, habitable structure, or vegetable garden or orchard producing food for human consumption) separation distance identified in Table 741.07 shall be modified as shown in Table 741.08 for an application radius greater than twenty (20) feet. Designers and the Department may interpolate between separation distances presented in Table 741.08 for application radius and operating pressure values different than those shown.

Table 741.08 – Receptor Separation Distances (in Feet) for Various Combinations of Application Radius and Operating Pressure (Reference Table 741.07)

<table>
<thead>
<tr>
<th>Application Radius (ft)</th>
<th>Operating Pressure (psi)</th>
<th>Receptor Separation Distance (ft)</th>
</tr>
</thead>
</table>

The following requirement for vertical separation distance is imposed in addition to those set forth in Section 285.33(c)(3)(E): all drip irrigation disposal fields shall be covered with at least eight (8) inches of soil backfill of suitable composition to support vegetative growth.

The following amendment to Section 285.33 (a)(1)(B) (Porous Media) states that chipped tires or iron slag are not a permitted medium.

The following amendment to Section 285.33(c)(3)(E) (Vertical Separation Distance) requires that all drip irrigation disposal fields shall be covered with at least eight (8) inches of soil backfill of suitable composition to support vegetative growth.

The following amendment to Section 285.33(d)(1) (Additional Requirements for Surface Application Systems) states that for all effluent disposal systems utilizing trenches or beds containing disposal media, the bottom of the excavation shall be level to within one inch over each 25 feet of excavation, but in no event shall there be more than two inches of fall over the entire length of the excavation. For the purposes of this amendment, gravel-less drainpipe shall be required to meet this standard.

The following amendment to Section 285.33 Criteria for Effluent Disposal Systems states that gravel-less drainpipe shall be required to meet NSF/ANSI Standard 46 for effluent disinfection devices. Should the treatment unit be upgraded or altered, the disinfection device shall be re-evaluated and shall be upgraded, if necessary, to a device that meets the NSF/ANSI Standard 46 requirements.

Table 741.08 – Receptor Separation Distances (in Feet) for Various Combinations of Application Radius and Operating Pressure (Reference Table 741.07)
§8.19. The surface application area receiving effluent spray shall have a maximum surface slope of fifteen percent (15%) in any direction. Compliance with this requirement may be achieved through site modification activities such as terracing or grading, provided that the surface is sufficiently stabilized to minimize erosion.

(F) Individual sprinkler heads shall be protected from damage by surrounding the heads with a concrete base or other structure acceptable to the Department.

(G) Surface application systems shall not be allowed for commercial or institutional operations.

§8.15. Amendment to Section 285.34(a) (Septic Tank Effluent Filters)
The following requirement for septic tank effluent filters is imposed in addition to those set forth in Section 285.34(a): the outlet pipe from all standard treatment units shall be fitted with an effluent filter.

§8.16. Amendment to Section 285.34(b)(2) (Pump Tank Sizing)
Pump tanks shall be sized to contain one day of flow above the alarm-on level.

§8.17. Amendment to 30 TAC 285.70(a) (Duties of Owners With Malfunctioning OSSFs)
The following requirement for owners with malfunctioning on-site sewage facilities is imposed in addition to those set forth in 30 TAC §285.70(a): the owner of a malfunctioning on-site sewage facility can be given a deadline to initiate and complete repairs to the system of less time than stated in 30 TAC §285.70(a) if the Department believes there is an imminent threat to the public health or environment.

§8.18. Amendment to 30 TAC 285.91(12) (OSSF Maintenance Contracts, Affidavit, and Testing/Reporting Requirements)
The following requirement for maintenance by owners of on-site sewage facilities is imposed in addition to those set forth in 30 TAC §285.91(12) and as authorized under House Bill 2482, Texas Legislature, 80th Regular Legislative Session: all maintenance, testing and reporting activities conducted on OSSFs under the jurisdiction of Hays County shall be performed by a Maintenance Provider that possesses a current license with the TCEQ. This requirement is specifically adopted to preclude maintenance, testing and reporting activities from being performed by an OSSF owner unless that OSSF owner is also a licensed Maintenance Provider. As allowed under the delegation of authority from the TCEQ, this provision is specifically intended to supersede any contrary requirements of the TCEQ regulation or other state law.

§8.19. Miscellaneous

(A) A permit will be required for all On-Site Sewage Facilities, regardless of the size of the lot or acreage onto which it is installed. A permit will not be issued for an On-Site Sewage Facility that is on a tract of land that is found to be in violation of the Hays Development Regulations.
County Development Regulations. Any structure or property used for either residential or commercial purposes shall be connected to an On-Site Sewage Facility permitted by the Department or a centralized sewage treatment facility permitted by the Texas Commission on Environmental Quality.

(B) A construction inspection of an On-Site Sewage Facility must be completed within 12 months from the date of issuance of an authorization to construct. Construction of an on-site sewage facility must be completed within 14 months of the date of issuance of an authorization to construct and within eighteen (18) months of the date of application for a permit.

(C) French drains used to support and protect On-Site Sewage Facilities shall be upgradient of the On-Site Sewage Facility and shall be designed by a Texas licensed professional engineer to prevent groundwater from entering into the On-Site Sewage Facility. An applicant desiring to install a french drain must demonstrate that its use will afford a greater level of public health by diverting groundwater away from the On-Site Sewage Facility.

(D) Effluent holding tanks shall be authorized only for temporary use for 90 days, with one 90 day renewal. The permittee must provide metered water usage and pumping manifests.

(E) Composting, incinerating, and “no water” toilets shall be permitted by the Department under the Rules. Planning material submitted shall clearly identify the type of toilet that will be installed and the site specific location of the proposed toilet. The permitted location shall be required to have hand-washing facilities utilizing potable water. Public parks owned by a political subdivision shall be exempt from the hand-washing facilities requirement.

(F) All buried standard, non-standard and proprietary treatment compartments and pump tanks shall be provided with at least one at-grade riser that can be accessed without digging. The installed riser shall be water tight.

(G) All commercial, institutional and non-residential on-site sewage facilities shall be equipped with a flow metering device capable of measuring and recording the average daily flow rate.

§8.20. Grandfathering, Re-authorization and Re-permitting of Existing Systems

(A) Grandfathering

An owner of an OSSF is required to comply with the permitting, installation and operational requirements of Chapter 741, or any other applicable requirements, in effect at the time the OSSF is installed. Routine maintenance and repairs to an OSSF shall be required to bring the OSSF into compliance with all such applicable requirements.

(B) Re-Inspection by Qualified Inspector.

(1) If there is a transfer of ownership of an OSSF, the new owner shall submit no later than five (5) days following the effective date of the ownership transfer the following information:

(a) Documentation verifying that the OSSF septic tank has been pumped within the previous three years and showing the tank capacity and depth of sludge; and,

(b) Effluent holding tanks shall be authorized only for temporary use for 90 days, with one 90 day renewal. The permittee must provide metered water usage and pumping manifests.

(E) Composting, incinerating, and “no water” toilets shall be permitted by the Department under the Rules. Planning material submitted shall clearly identify the type of toilet that will be installed and the site specific location of the proposed toilet. The permitted location shall be required to have hand-washing facilities utilizing potable water. Public parks owned by a political subdivision shall be exempt from the hand-washing facilities requirement.

(F) All buried standard, non-standard and proprietary treatment compartments and pump tanks shall be provided with at least one at-grade riser that can be accessed without digging. The installed riser shall be water tight.

(G) All commercial, institutional and non-residential on-site sewage facilities shall be equipped with a flow metering device capable of measuring and recording the average daily flow rate.
(b) A copy of an OSSF inspection report prepared by a Qualified OSSF Inspector which contains a verification by the inspector that the OSSF is functioning in compliance with the applicable OSSF requirements.

(2) Where the Qualified OSSF Inspector or the Department suspect that the effluent disposal/dispersal component(s) are not functioning as designed, the OSSF owner shall have an evaluation of the suitability of the soil profile and infiltration characteristics of the dispersal area performed by a TCEQ licensed site evaluator.

(3) Based on a review of the above information and any other available information, the Department or the Commissioners Court may require that the OSSF be subject to re-permitting under §741.8.13(C).

(C) Re-Permitting

(1) If an OSSF is replaced or subjected to a major alteration, the OSSF shall be required to be re-permitted and upgraded to meet all applicable requirements of the current OSSF regulations, except for minimum lot acreage requirements. In re-permitting an OSSF, the Department may waive one or more of the permitting requirements of the current OSSF regulations if the Department determines that strict compliance with the current OSSF regulations would be impracticable or would not result in significant additional environmental protection.

(2) In instances where the Department is requested to re-permit an OSSF located on a tract of land that is occupied by other OSSFs, where such tract would otherwise qualify for exemption from classification as a subdivision under Chapter 705, Subchapter 2, the Department may require that an exempt subdivision registration be filed with the Department designating individual lots for each OSSF on the tract.

(b) A copy of an OSSF inspection report prepared by a Qualified OSSF Inspector which contains a verification by the inspector that the OSSF is functioning in compliance with the applicable OSSF requirements.

(2) Where the Qualified OSSF Inspector or the Department suspect that the effluent disposal/dispersal component(s) are not functioning as designed, the OSSF owner shall have an evaluation of the suitability of the soil profile and infiltration characteristics of the dispersal area performed by a TCEQ licensed site evaluator.

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CHAPTER 745 - MANUFACTURED HOME RENTAL COMMUNITIES

Sub-Chapters

1. General Requirements

This Chapter shall govern the issuance of Development Authorizations for Manufactured Home Rental Communities within the County.

2. Legal Authority

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234.

3. Approval Required Prior to Construction

Development, including any associated construction of a Manufactured Home Rental Community (MHRC) may not begin before a Development Authorization has been issued by the County. These regulations apply to a manufactured home rental community for which construction is commenced on or after the effective date of these Regulations. Development Authorization for Manufactured Home Rental Communities shall be issued in the form of a Development Authorization.

4. Approval Required Prior to Furnishing Utility Service

A utility may not provide utility services, including water, sewer, gas, and electric services to a manufactured home rental community subject to a development authorization until the Development Authorization is issued by the Department.

Sub-Chapter 2 - Exemptions and Registration

1. Exempted Manufactured Home Rental Communities

The following Manufactured Home Rental Communities are exempted from the requirements of this Chapter, except for the requirement to register, as outlined below:

(A) Manufactured Home Rental Communities consisting of four (4) or fewer spaces or lots;

(B) Manufactured Home Rental Communities consisting of five (5) or fewer spaces or lots each of which is occupied by an individual who is related to the owner of the Manufactured Home Rental Community within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any space or lot is subsequently offered for rent or lease to the public or is occupied by persons at least one of which is not related to the owner within the third degree by consanguinity or affinity, the requirements of this Chapter apply; or,

(C) Manufactured Home Rental Communities consisting entirely of individual lots or spaces which are ten (10) acres or larger.

Exempted Manufactured Home Rental Communities must have direct access to a public roadway.

2. Registration

All exempt Manufactured Home Rental Communities shall register with and submit the following to the Department:
Hays County Development Regulations  Adoption Version – August 18, 2009

(A) A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached thereto;

(B) A survey or sketch (which may be on tax parcel maps or other form approved by the Department) showing the boundaries of the spaces or lots, adjacent roads and adjacent property owners;

(C) An executed registration Application in the form promulgated by the Department; and,

(D) An affidavit stating that the owner of the Manufactured Home Rental Community acknowledges that any change in the exemption status may make the Manufactured Home Rental Community subject to this Chapter.

§2.03. Acknowledgement of Registration
Upon the receipt of a Registration for an Exempt Manufactured Home Rental Community, the Department shall issue a written acknowledgement to the person filing the registration. This written acknowledgement shall reference the acknowledgements made on the registration form and the affidavit required under 745.2.02(D), and shall indicate that any changes in the exemption status may make the Manufactured Home Rental Community subject to this Chapter.

Sub-Chapter 3 - Application Procedures

§3.01. General Requirements and Application Procedures
Applications to the Commissioners Court for approval of a Manufactured Home Rental Community pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapters 701 and 711 of these regulations.

§3.02. Fees
Fees for Applications for Manufactured Home Rental Communities shall be based on the number of lots or rental spaces and shall be as established by the Commissioners Court. Application Fees may include a minimum review fee in addition to the fee per lot.

§3.03. Additional Application Information
In addition to the items required to be submitted in accordance with Chapters 701 and 711, all Applications for approval of a Manufactured Home Rental Community pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the Department and shall also include the name of the proposed Manufactured Home Rental Community.

§3.04. Communication with Precinct Commissioner
The Applicant or the Applicant’s authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed Manufactured Home Rental Community is located prior to the submission of the Application.

§3.05. Supplemental Information
In addition to the items required to be submitted with the Application in accordance with Chapters 701 and 711, each Application for a Manufactured Home Rental Community shall be supplemented with the following information:
Sub-Chapter 4 - Minimum Standards

§4.01. Internal Roadways and Storm Water Management Facilities

All internal roadways and associated storm water management facilities shall be designed and constructed to minimum standards that are reasonably necessary to permit ingress and egress access by fire and emergency vehicles as designed by a Texas licensed professional engineer. The drainage facilities shall not be required to exceed the standards and specifications for subdivisions, as set forth in Chapter 750 of these Regulations.

§4.02. Communities Served by On-Site Sewage Facilities

All developments to be served by On-Site Sewage Facilities shall comply with the TCEQ Regulations (specifically 30 TAC §285.4, “Facility Planning,” and 30 TAC §285.5, “Submittal Requirements for Planning Materials”) and Chapter 741 of these Regulations.

Sub-Chapter 5 - Requirements Prior to Occupancy

The Department shall inspect all roadways and associated storm water management structures for compliance with these minimum standards. Tenants may not occupy rental spaces until all construction requirements of the infrastructure plan have been approved and completed.

Sub-Chapter 6 - Public Notice

§6.01. Notice Required

All Applications seeking approval from the County for a Manufactured Home Rental Community shall be required to notify the public using posted notice, written notice, and published notice.

§6.02. Posted Notice

The Applicant shall be required to notify the public upon submission of an Application under this Chapter in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:
NOTICE OF APPLICATION FOR MFG. HOME RENTAL COMMUNITY

The signs shall contain the following notice text:

An application has been filed with HAYS COUNTY to develop a manufactured home rental community on this property. Information regarding the application may be obtained from:

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.

§6.03. Written Notice

The Applicant shall be required to notify affected political subdivisions and property owners in the proximity of the Subject Property upon submission of an application under this Chapter in accordance with the requirements for Written Notice in §701.9.05. In addition to the items required under §701.9.05, the notice must include, at the minimum, the following information:

(A) The maximum number of rental units to be located at the subject property;

(B) The anticipated timetable for initial construction and any anticipated subsequent phases of development, including an estimated population for each phase and at full buildout; and,

(C) A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.
CHAPTER 746 - RESERVED
CHAPTER 749 - RESERVED

CHAPTER 749 - RESERVED
CHAPTER 751 - USE OF COUNTY PROPERTIES OR FACILITIES

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern certain activities and improvements on, in, above or under certain County properties or facilities.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234.

§1.03. Approval Required
A Development Authorization is required for any of the activities or improvements associated with any of the designated County properties or facilities, including roadway Right-of-Way. No driveway or utility construction, mail boxes, landscaping or any other encroachment into public right-of-way or easements shall be allowed without first obtaining a Development Authorization from the County.

§1.04. County Property and Facilities Regulated
These regulations govern all real property owned or operated by the County or held in trust for the public, including but not limited to:

(A) Real property owned by the County or any subdivision of the County;
(B) Public roadways, rights-of-way, easements of all kinds and types;
(C) Facilities and structures that occupy real property and are owned or operated by the County;

§1.05. County Property and Facilities Excluded
These regulations do not apply to County owned properties or facilities wholly under the operational control of the United States of America, the State of Texas, a political subdivision of the State of Texas, or a special district or entity established by the Texas Legislature.

§1.06. Exceptions for Activities in the Normal Course of County Business
Nothing in these regulations shall be construed to require the County or any of its employees, agents or contractors to obtain a permit to conduct authorized activities in the normal course of conducting County business.

§1.07. Exceptions for Activities Authorized by Other Jurisdictions
Nothing in these regulations shall be construed to preclude activities authorized under state or federal law by other governmental entities with jurisdiction in Hays County, including entities with eminent domain. To the extent that the requirements of this Chapter do not conflict with the authorizations issued by such other governmental entities, any use of County property or facilities shall conform to the requirements of this Chapter. In the event of conflicts, the conflicting provisions of this Chapter shall be deemed waived, but the remaining provisions shall remain in full force and effect. Entities that are exempt from the requirement to obtain prior

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authorization for use of County facilities or properties shall be required to provide record documents to the County for all County property and/or facilities utilized.

Sub-Chapter 2 - Types of Approvals Authorized

§2.01. Minor Permit
Activities which are generally small and routine in nature may qualify for a minor permit. Activities authorized through a minor permit must comply with all established requirements and guidelines. The following activities are specifically recognized as qualifying for a minor permit, if they are in compliance with the conditions stated:

(A) The installation of mailboxes and/or an address signs along a public roadway, provided that all items projecting above the ground surface are constructed of “break-away” or collapsible materials, as defined in standards published by the Department;

(B) The installation of individual driveways in public roadways to allow access to previously platted lots or to a single commercial or institutional activity on its own tract, if not on a previously platted lot, provided that the installation complies with standards published by the Department;

(C) The installation of individual mailboxes, signs, communication antennas fastened to existing structures or other related items located on County property that is not within a public roadway;

(D) The installation of donated public amenities in a dedicated park; and,

(E) The installation of memorials, monuments or other related items located on County property that are not within a public roadway.

§2.02. Permits Other than Minor Permits
Activities that do not qualify for a minor permit, as described above, are required to undergo site development review and obtain a permit under the review process outlined in Chapter 711. The following activities are specifically recognized as requiring a permit under the review process outlined in Chapter 711:

(A) The installation of mailboxes, signs, and other related items in public roadways if such items projecting above the ground surface are not constructed of “break-away” or collapsible materials;

(B) The installation of multiple driveways in public roadways to allow access to a previously platted lot or tract;

(C) The installation of utility lines on, in, above or under public roadways; and,

(D) The installation of communications equipment not fastened to existing structures or other related items located on County property that is not within a public roadway.

§2.03. Incorporation into Other Types of Permits
The County may authorize the use of designated County properties or facilities in conjunction with any other type of Development Authorization issued, provided that such other Development Authorization undergoes the same or more stringent review than required by this Chapter.
Sub-Chapter 3 - Regulated Activities and Improvements

§3.01. Construction or Land Disturbance
Approval is required prior to conducting any construction or land disturbance on, in, above, or under any designated County Property.

§3.02. Temporary Structures or Facilities
Approval is required prior to placing any temporary structures or facilities on, in, above, or under any designated County Property.

§3.03. Permanent Structures or Facilities
Approval is required prior to placing any permanent structures or facilities on, in, above, or under any designated County Property.

§3.04. Exceptions for Emergency Conditions
Prior approval of the Commissioners Court is not required for use of designated County property for activities conducted by authorized law enforcement, public safety and emergency services agencies and officers operating within the scope of their duties during an emergency condition. Notice of such use by authorized law enforcement, public safety and emergency services agencies and officers shall be provided to the County as soon as possible. All non-emergency use of designated County property by law enforcement, public safety and emergency services agencies and officers shall require prior approval as outlined in this Chapter.

Sub-Chapter 4 - General Application Procedures

§4.01. Application Information
The Department shall develop and make available to the public forms for submitting Applications for use of designated County property under this Chapter. These forms shall provide for the general information requested in Chapter 701, Subchapter 7, as well as the following additional information:

(A) the type of use or activity for which approval is being requested;
(B) the name, designation and type of designated County property for which use is being requested;
(C) the specific location on or within the designated County property for which use is being requested; and,
(D) A site sketch or other information in sufficient detail to describe the location of the proposed activities, including the location of specific improvements to be constructed (may be attached to the Application form).

§4.02. Fees
The Commissioners Court shall establish Application and/or recurring usage fees for Applicants requesting use of designated County property. Application fees shall be paid at the time the Application is filed. Where established by the Commissioners Court, recurring usage fees shall be paid by the Applicant, Permittee or assignee on the schedule identified by the Commissioners Court.

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Prior approval of the Commissioners Court is not required for use of designated County property for activities conducted by authorized law enforcement, public safety and emergency services agencies and officers operating within the scope of their duties during an emergency condition. Notice of such use by authorized law enforcement, public safety and emergency services agencies and officers shall be provided to the County as soon as possible. All non-emergency use of designated County property by law enforcement, public safety and emergency services agencies and officers shall require prior approval as outlined in this Chapter.

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The Department shall develop and make available to the public forms for submitting Applications for use of designated County property under this Chapter. These forms shall provide for the general information requested in Chapter 701, Subchapter 7, as well as the following additional information:

(A) the type of use or activity for which approval is being requested;
(B) the name, designation and type of designated County property for which use is being requested;
(C) the specific location on or within the designated County property for which use is being requested; and,
(D) A site sketch or other information in sufficient detail to describe the location of the proposed activities, including the location of specific improvements to be constructed (may be attached to the Application form).

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The Commissioners Court shall establish Application and/or recurring usage fees for Applicants requesting use of designated County property. Application fees shall be paid at the time the Application is filed. Where established by the Commissioners Court, recurring usage fees shall be paid by the Applicant, Permittee or assignee on the schedule identified by the Commissioners Court.
Sub-Chapter 5 - Minor Permits

§5.01. General Requirements and Application Procedures

Upon receipt of an Application for a minor permit, the Department shall evaluate the application to ensure that it complies with the requirements for issuing a minor permit. The Department may publish an abbreviated Application form with only the necessary information required for a minor permit.

§5.02. Minor Permit Review By the Department

The Department shall review each minor permit submitted and take one of the following actions:

(A) Where the Department determines that the Application complies with the requirements for a minor permit and the proposed use complies with the requirements of this Chapter, the Department shall issue the minor permit.

(B) Where the Department determines that the Application either does not comply with the requirements for a minor permit and/or the proposed use does not comply with the requirements of this Chapter, the Department shall issue a written response to the Applicant indicating the proposed use cannot be processed as a minor permit. This written response shall:

1. Indicate that the proposed use will require a Development Authorization;
2. Reference the procedures for obtaining a Development Authorization as outlined in Chapters 701 and 711;
3. Reference the Department’s published application forms and any supplemental instructions or guidance documents applicable to a Development Authorization; and,
4. State that proceeding with the prohibited use would be a violation of these Regulations that may subject the Applicant and/or the Property Owner to enforcement by the County.

§5.03. Contents of Minor Permit

(A) General Information

Minor Permits issued by the Department under this Subchapter shall contain the general information required for Development Authorizations outlined in Chapter 701, Subchapter 11.

(B) Expiration

Unless otherwise indicated with the minor permit documentation, minor permits shall expire one (1) year from the date of issuance if the activities authorized in the minor permit are not completed. The Department may extend administratively the length of a minor permit for no more than one additional six month term. Expired minor permits are null and void and require a new Application, including application fees.
§6.01. General Application Processing
Applications for use of designated County property which do not qualify for a minor permit shall be processed in accordance with the procedures for a Development Authorization outlined in Chapter 711 of these Regulations.

§6.02. Communication with Precinct Commissioner
The Applicant or the Applicant’s authorized agent is required to contact the Commissioner(s) in whose precinct(s) the designated County property is located prior to the submission of the Application.

§6.03. Written Notice for Certain Uses
Where the Commissioners Court or the Department determines that other persons holding County use permits may be affected by the proposed use, the Department shall provide the Applicant with a list of potentially affected permit holders. The Applicant shall notify all identified permit holders in accordance with the requirements for Written Notice in §701.9.05. In addition to the items required under §701.9.05, the written notice must include, at the minimum, the following information:

(A) the type of use or activity for which approval is being requested;
(B) the name, designation and type of designated County property for which use is being requested;
(C) the specific location on or within the designated County property for which use is being requested;
(D) A site sketch or other information in sufficient detail to describe the location of the proposed activities, including the location of specific improvements to be constructed;
(E) The proposed timeline for commencing the proposed use (including any associated construction activities); and,
(F) The possible impacts of the proposed use on the existing permit holder’s authorized use.

§6.04. Posted Notice
Where the Commissioners Court or the Department determines that the proposed use is likely to result in significant public interest, the Applicant shall be required to notify the public in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:

NOTICE OF APPLICATION TO USE OF COUNTY PROPERTY

The signs shall contain the following notice text:
An application has been filed with HAYS COUNTY for use of this County Property. Information regarding the application may be obtained from:

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.
§7.01. Reasonable Use
Applications for use of designated County property shall be a reasonable use of public property and shall not preclude the reasonable use of the remaining portion of the designated County property.

§7.02. In the Public Interest
Applications for use of designated County property shall be in the public interest as determined by the Commissioners Court. The provision of public utilities and services shall be deemed to be in the public interest.

§7.03. Public Health, Safety, and the Environment
(A) Applications for use of designated County property shall not pose a threat to public health, safety, welfare or the environment. Applicants shall for use of designated County property bear the burden of demonstrating that the proposed activities or improvements are protective of public health, safety, welfare and the environment. The Commissioners Court may include such reasonable restrictions on the authorized use as it deems appropriate to public health, safety, welfare or the environment.

(B) All structures (either permanent or temporary) constructed within public roadway rights-of-way shall conform to the applicable public safety requirements of the Texas Department of Transportation (TXDOT), or other industry standard acceptable to the County. Structures projecting above the ground surface shall be constructed of “break-away” or collapsible materials. Signage shall conform to TXDOT requirements. Mailboxes shall conform to the requirements of the U.S. Postal Service, TXDOT Standard MB-06, and the AASHTO Standard “A Guide for Erecting Mailboxes on Highways.”

(C) Utilities placed within County property shall conform to all applicable engineering and regulatory standards, including the County’s standard utility installation specifications.
CHAPTER 752 - RESERVED
CHAPTER 753 - RESERVED

CHAPTER 753 - RESERVED
CHAPTER 755 - LAND USE AND LOCATION RESTRICTIONS

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern certain types of land use and the location of certain activities within the County, as stated herein.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 234, 243 and 352 and under the Texas Water Code in Chapters 26 and 35.

§1.03. Compliance Required
The Commissioners Court requires that the regulated land uses and activities be conducted in accordance with the regulations in this Chapter, unless excluded or exempted under State or Federal law.

Sub-Chapter 2 - Definitions Specific to This Chapter
For the purposes of these Regulations, the following terms shall have the corresponding meaning:

(A) Automotive Wrecking and Salvage Yard - any person or business that stores three or more wrecked vehicles outdoors for the purpose of dismantling or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.

(B) Completed Renewal Application - an application that contains all of the information and documents required by this Chapter.

(C) Demolition Business - a business that demolishes structures, including housing and other buildings, in order to salvage building materials and that stores those materials before disposing of them.

(D) Flea Market – an outdoor market for selling second hand articles or antiques.

(E) Interested Party - any person who may be affected by the issuance of a permit pursuant to this Chapter and would include not only owners in fee simple, life tenants, lessees for years, lienholders, easement holders, and residents of a proposed yard, but also any person with these interests in land situated within one thousand (1000) feet of a proposed yard.

(F) Junk - copper, brass, iron, steel, rope, rags, batteries, tires or other material (other than a wrecked vehicle) that has been discarded or sold at a nominal price by a previous owner of the material.

(G) Junkyard - a business that stores, buys, or sells materials that have been discarded or sold at a nominal price by a previous owner and that keeps all or part of the materials outdoors until disposing of them.

(H) Proposed Yard - the land to be occupied by a junkyard or automotive wrecking and salvage yard if a permit is granted pursuant to these rules.
Recycling Business - a business enterprise that is primarily engaged in the business of:

1. Converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;

2. Using raw material products of that kind in the production of new products; or,

3. Obtaining or storing ferrous or non-ferrous metals or other materials for a purpose described in this Chapter.

Sexually Oriented Business – a business enterprise meeting the requirements of Hays County’s Sexually Oriented Business Ordinance, as adopted on June 17, 1997, and as subsequently amended.

Wrecked Vehicle - a discarded, abandoned, junked, wrecked, or worn-out automotive vehicle, including an automobile, truck, tractor-trailer, or bus, that is not in a condition to be lawfully operated on a public road.

Sub-Chapter 3 - Regulated Activities

§3.01. Location Restrictions

The following types of activities are subject to the location restrictions presented in this Chapter, and have the definitions presented in either Chapter 701 or Subchapter 2 of this Chapter:

(A) Sexually Oriented Businesses; and,

(B) Construction adjacent to Regulated Roadways.

§3.02. Regulated Land Uses

The following types of activities are considered Regulated Land Uses and have the definitions presented in Subchapter 2 of this Chapter:

(A) Automotive Wrecking and Salvage Yards;

(B) Demolition Businesses;

(C) Flea Markets;

(D) Junkyards; and,

(E) Outdoor Resale Businesses;

§3.03. Regulated Access Controls

Any institutional or multi-unit residential developments with gates or other structural features to control vehicular or pedestrian access are considered Gated Communities with access controls and are subject to this Chapter.

Sub-Chapter 4 - Location Restrictions

§4.01. Location Review

All activities subject to location restrictions under this Chapter shall be reviewed by the Department, in accordance with the procedures presented in Chapter 711. Persons conducting activities subject to these location restrictions are required to submit an Application for review by the Department. The Department may also initiate its own review of activities based on
§4.02. Approval Required

All activities for which the Department either determines that they are not in compliance with the location restrictions or for which the Department is unable to determine whether they are in compliance with the location restrictions shall require a Development Authorization issued by the County.

§4.03. Sexually Oriented Businesses

Sexually Oriented Businesses are subject to licensing by the Hays County Sheriff in accordance with the County’s Sexually Oriented Business Ordinance. The Department shall assist the Hays County Sheriff in determining and enforcing the location restrictions identified in that ordinance through conducting a Site Development Review. Except as specifically authorized by the Hays County Sheriff, Sexually Oriented Businesses shall comply with the following location restrictions:

(A) No Sexually Oriented Business may be located within two thousand (2000) feet of the property line of the following activities, as measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises:

1. a child care facility;
2. a church or place of religious worship;
3. a dwelling;
4. a hospital;
5. a building in which any type of alcoholic beverages are sold;
6. a public building;
7. a public or private park/playscape; or,
8. a school.

(B) No Sexually Oriented Business may be located within two thousand (2000) feet of another Sexually Oriented Business, as measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

§4.04. Construction Adjacent to Regulated Roadways

Above-grade construction is prohibited within the building setback lines established for Regulated Roadways, as presented in Table 755.06, below. Building setback lines apply on each side of a Regulated Roadway.

Table 755.09 – Building Setback Lines (in Feet) for Various Roadway Classifications

<table>
<thead>
<tr>
<th>Roadway Classification</th>
<th>Setback Line</th>
</tr>
</thead>
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<td>50</td>
</tr>
<tr>
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<td>175</td>
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<tr>
<td>4.00</td>
<td>200</td>
</tr>
</tbody>
</table>

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§5.01. Applicability
The Regulated Land Uses identified in §755.3.02 are subject to regulation by the County in accordance with this Subchapter.

§5.02. Exemptions
(A) These rules do not apply to the following:

(1) A recycling business;

(2) A junkyard or an automotive wrecking and salvage yard that is located entirely within a municipality and that is subject to regulation in any manner by the municipality, unless the municipality has adopted these rules; or,

(3) A junkyard or an automotive wrecking and salvage yard that legally began operation before June 27, 1988 (the date upon which the initial rules regulating these land uses were adopted by the Commissioners Court).

(B) A person desiring an exemption from compliance with any requirement of these rules shall file a written request with the Department stating the nature of the exemption requested, the reason that justifies granting the exemption, and any additional information that the Commissioners Court requests. The Department shall notify the Commissioners Court of all requests for exemption within fourteen (14) days of the date on which the request is filed. Within forty-five (45) days after the filing of a request, the Commissioners Court shall review the request and notify the person, in writing, of their decision. If the request is denied, the Commissioners Court shall include the reasons for denial in the notice. If the Commissioners Court does not give notice of their decision within forty-five (45) days of receipt of the request, the exemption is automatically granted.

§5.03. Permit Application Procedures
(A) General Requirements and Application Procedures
Applications to the County for a Regulated Land Use permit pursuant to these Regulations are subject to the general application procedures set forth in Chapters 701 and 711.

(B) Supplemental Information Required for Permit
In addition to the general application information required under Chapter 701, Subchapter 7, and Chapter 711, Subchapter 4, Applications for permits to operate a facility considered to be a...
Regulated Land Use (as defined in §755.3.02) or to expand or change locations shall be made in writing to the Department on a form prescribed by the Department and shall, along with such other information the Department may require, contain the names and mailing address of all schools, churches and any interested parties known to the applicant to want notice of the hearing on the application for the Permit.

(C) Supporting Documents Required for Permit.
If the applicant is not the owner in fee simple of the proposed facility, a properly executed power of attorney or other written evidence of the agency agreement between the applicant and the owner.

(D) Acknowledgement Required for Permit
The application shall contain the following statements: "Applicant agrees to provide public notices pursuant to Chapter 755 of the Hays County Development Regulations. All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief. Applicant acknowledges that the permit applied for shall be subject to all provisions of the codes and ordinances of Hays County relating to Regulated Land Uses and shall be subject to all provisions of the codes and statutes of the State of Texas."

§5.04. Notice Procedures
(A) In any notice of a hearing pursuant to Subchapter 9 of this Chapter, the Department shall state the nature of the approval sought, the location for which approval is sought, the date, time, and place of the hearing, any additional information the Department may consider necessary, and the right of interested parties to be heard on the questions of approval and conditions to be imposed.
(B) At least ten days prior to the date set for any hearing pursuant to Subchapter 9 of this Chapter, the Applicant shall provide Written Notice, in accordance with §701.9.08 to the owners of the proposed facility considered a Regulated Land Use and to the schools, churches, and interested parties included in the lists of these groups attached to the application for the permit pursuant to Subchapter 7 of these rules.
(C) The Department shall require the Applicant to display a copy of a notice of hearing pursuant to Subchapter 9 of Chapter 701 of these Regulations in compliance with the Texas Open Meetings Act, on the site of the proposed facility or expansion or change of location of a permitted facility in a place that is visible from the adjacent roadways or highways. This notice of hearing must be displayed at least ten (10) days before the date set for the hearing.
(D) The Applicant shall be required to notify the public upon submission of an Application under this Chapter, in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:
NOTICE OF APPLICATION FOR {name of regulated land use from §755.3.02}
PERMIT
The signs shall contain the following notice text:
An application has been filed with HAYS COUNTY for an {name of regulated land use from §755.3.02} permit for this property. Information regarding the application may be obtained from:

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.

§5.05. Applications and Fees
The Department shall accept all applications and collect all fees necessary to meet the requirements of this Chapter. All fees collected shall be deposited in the general fund of the county.

§5.06. Renewal Application Procedures
(A) Applications for renewal permits shall be made in writing to the Department on a form prescribed by the Department and shall generally contain the same information as required for an initial permit.

(B) Acknowledgement Required for Renewal Permit

The application shall contain the following statements:

1. The location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the initial application.

2. The permit has never been revoked and is not suspended or expired on the date of application.

3. The facility considered to be a Regulated Land Use is in operation on the date of application for renewal.

4. All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief.

5. Applicant acknowledges that the permit applied for shall be subject to all provisions of the codes and ordinances of Hays County relating to Regulated Land Uses and shall be subject to all provisions of the codes and statutes of the State of Texas.

§5.07. Issuance of Permit

(A) Initial Permits

Initial permits may be issued by County upon receipt of the prescribed fee and a completed application only if the Commissioners Court has approved the location of the facility considered to be a Regulated Land Use.

(B) Permits for Increase in Land Area or Change of Location

Permits for an increase in land area of the location or for changes in location may be issued by the County upon receipt of the prescribed fee and a completed application only if the Commissioners Court has approved the location of the additional area to be used for the increase in land area or the new location of the facility considered to be a Regulated Land Use.

(C) Issuance of Permits
Under the conditions established in these rules, the Department shall issue permits to all applicants whose applications have been approved by the Commissioners Court in compliance with Subchapter 9 of this Chapter. All permits shall include the certification of the Hays County Clerk, or his authorized agent, that the permit has been approved by the Commissioners Court and the date of approval. All permits shall be originally signed by the Director of the Department or his authorized agent.

(D) Annual Renewal of Initial Permits

After the initial permit has been issued by the County, the Department shall renew the permit within thirty (30) days after receipt of the prescribed fee and a completed renewal application, provided that the location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the initial application; the permit has never been revoked and is not suspended or expired on the date of application; and the junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.

(E) Annual Renewal of Permits for Increase in Land Area or Change of Location

After the permit for increase in land area or change of location has been issued by the County, the County shall renew the permit within thirty (30) days after receipt of the prescribed fee and a completed renewal application, provided that the location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the application for increase in land area or a change of location; the permit has never been revoked and is not suspended or expired on the date of application; and the facility considered to be a Regulated Land Use is in operation on the date of application for renewal.

§5.08. Procedure for Commissioners Court Approval

(A) Public Hearing

Prior to approval of any application for a permit pursuant to these rules, the Commissioners Court shall hold a public hearing on the question of approval of the application and conditions to be imposed on the location. At this public hearing, interested parties shall have the right to be heard on the question of approval and conditions to be imposed. The public hearing shall be held within forty-five (45) days of receipt of an application in compliance with §755.5.06.

(B) Notice of Hearing

The County shall give notice of the hearing on the application as prescribed in Section §755.5.04.

(C) Criteria for Approval

The Commissioners Court may deny approval of any application for any permit sought pursuant to these rules for the following reasons:

1. The location of the proposed facility would be detrimental to the public health, safety, or welfare;
2. The location of the proposed facility would create a hazard to the environment;
3. The location of the nearest boundary of the proposed facility would be within one thousand (1,000) feet of the nearest property line of property on which there is a church, a school, a park, a hospital, a nursing home, or a residence (single family home, duplex,
(4) The location of the proposed facility would be incompatible with the surrounding development;

(5) The location of the proposed facility would be detrimental to the economic welfare of Hays County;

(6) The location of the proposed facility would be within one thousand five hundred (1,500) feet of a lake, river, tributary or pond;

(7) The location of the proposed facility would be within the one hundred (100) year flood plain;

(8) The applicant has not complied with Subchapter 7 of this Chapter;

(D) Conditions on Approval

In granting approval of any application for a permit to establish or expand or change location of any facility considered to be a Regulated Land Use within Hays County, the Commissioners Court may impose conditions on the location at which such a facility may operate.

(E) Time for Approval

The Commissioners Court shall decide whether to grant or deny approval of an application within sixty (60) days of the public hearing on that application and, if this decision is not made within sixty (60) days, the application shall be deemed to have been approved by the Commissioners Court.

§5.09. Requirements for Operations

(A) Commencement of Operations

A person shall not operate a facility considered to be a Regulated Land Use (as defined in §755.3.02) within Hays County unless that person has a valid, subsisting permit obtained pursuant to these rules.

(B) Expansion of Operation

A person shall not increase the land area occupied by or change the location of a facility considered to be a Regulated Land Use (as defined in §755.3.02) unless that person has a valid, subsisting permit for the increase in land area or change in location obtained pursuant to these rules.

(C) Compliance with Conditions

A person granted a permit shall comply with all conditions placed on the location of a facility considered to be a Regulated Land Use (as defined in §755.3.02) by the Commissioners Court pursuant to Subchapter 9 of this Chapter.

§5.10. Grounds for Suspension or Revocation of Permit

(A) Suspension of Permit

If a facility considered to be a Regulated Land Use is not screened in accordance with the requirements established by the County, the Department may suspend the permit for that facility.

(D) Conditions on Approval

In granting approval of any application for a permit to establish or expand or change location of

(E) Time for Approval

The Commissioners Court shall decide whether to grant or deny approval of an application within sixty (60) days of the public hearing on that application and, if this decision is not made within sixty (60) days, the application shall be deemed to have been approved by the Commissioners Court.

§5.09. Requirements for Operations

(A) Commencement of Operations

A person shall not operate a facility considered to be a Regulated Land Use (as defined in §755.3.02) within Hays County unless that person has a valid, subsisting permit obtained pursuant to these rules.

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A person shall not increase the land area occupied by or change the location of a facility considered to be a Regulated Land Use (as defined in §755.3.02) unless that person has a valid, subsisting permit for the increase in land area or change in location obtained pursuant to these rules.

(C) Compliance with Conditions

A person granted a permit shall comply with all conditions placed on the location of a facility considered to be a Regulated Land Use (as defined in §755.3.02) by the Commissioners Court pursuant to Subchapter 9 of this Chapter.
The suspension shall continue until the facility is being operated in compliance with this Chapter and other applicable regulations.

(B) Notice of Suspension
If the Department suspends the permit of a facility considered to be a Regulated Land Use, the Department shall provide Written Notice of the suspension to the applicant for the suspended permit.

(C) Revocation of Permit
(1) If the permit for a facility has been suspended for more than fourteen (14) days and the operation of the facility has not been brought into compliance with this Chapter, the permit shall automatically be revoked and no valid or subsisting permit shall exist for that facility.

(2) If the applicant has provided any information in the application which is not true and correct, then the permit may be revoked by the Department and, if revoked, no valid or subsisting permit shall exist for that facility.

(D) Notice of Revocation
If the permit of a facility considered to be a Regulated Land Use is revoked pursuant to these rules the Director shall give notice of that revocation to the applicant for the revoked permit.

(E) Hearing on Suspension and Revocation
The applicant or current holder of a suspended or revoked permit may have a hearing by the Commissioners Court on the suspension or revocation of the permit if a request for such a hearing is made in writing to the Hays County Judge within thirty (30) days of receipt of the notice of suspension or revocation. The hearing will be set as soon as practicable, but in any event no later than thirty (30) days after receipt of the request for the hearing.

Sub-Chapter 6 - Gated Community Access Control Regulations

§6.01. Applicability
The owner or operator of any institutional or multi-unit residential gated community is required to obtain a permit from the County and to comply with the technical requirements outlined below. Nothing in this Subchapter shall be construed to require an institutional or multi-unit residential community to have either vehicular or pedestrian gates. The intent of this Subchapter is to ensure access to the interior of the gated community by law enforcement and emergency services providers.

§6.02. Exemptions and Exclusions
(A) These rules do not apply to the following gated communities:

(1) Gated communities that are subject to access control regulation in any manner by a municipality,

(2) Gated communities which existed on the effective date of this Chapter; and,

(3) Gated communities consisting entirely of dwelling units that are occupied by an individual who is related to the owner of the gated community within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any

Hays County Development Regulations Adoption Version – August 18, 2009

The suspension shall continue until the facility is being operated in compliance with this Chapter and other applicable regulations.

(B) Notice of Suspension
If the Department suspends the permit of a facility considered to be a Regulated Land Use, the Department shall provide Written Notice of the suspension to the applicant for the suspended permit.

(C) Revocation of Permit
(1) If the permit for a facility has been suspended for more than fourteen (14) days and the operation of the facility has not been brought into compliance with this Chapter, the permit shall automatically be revoked and no valid or subsisting permit shall exist for that facility.

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If the permit of a facility considered to be a Regulated Land Use is revoked pursuant to these rules the Director shall give notice of that revocation to the applicant for the revoked permit.

(E) Hearing on Suspension and Revocation
The applicant or current holder of a suspended or revoked permit may have a hearing by the Commissioners Court on the suspension or revocation of the permit if a request for such a hearing is made in writing to the Hays County Judge within thirty (30) days of receipt of the notice of suspension or revocation. The hearing will be set as soon as practicable, but in any event no later than thirty (30) days after receipt of the request for the hearing.

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(A) These rules do not apply to the following gated communities:

(1) Gated communities that are subject to access control regulation in any manner by a municipality,

(2) Gated communities which existed on the effective date of this Chapter; and,

(3) Gated communities consisting entirely of dwelling units that are occupied by an individual who is related to the owner of the gated community within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any
dwellings which are subsequently offered to the public or are occupied by persons none of which are related to the owner within the third degree by consanguinity or affinity, the requirements of this Chapter apply.

(B) The width and obstruction requirements in Section 755.6.04(D) do not apply to gated communities completed before January 1, 2002, if the requirements cannot readily be met because of space limitations or excessive cost. For purposes of this subsection, $6,000 per entrance based on the value of the dollar on January 1, 2000, is considered an excessive cost for expanding gate width and achieving an obstacle-free driveway apron or entrance.

§6.03. Permit Application Procedures

(A) General Requirements and Application Procedures for Initial Permit

Applications to the County for a permit pursuant to these Regulations are subject to the general application procedures set forth in Chapters 701 and 711.

(B) Renewal Applications

Applications for renewal permits shall be made in writing to the Department on a form prescribed by the Department and shall generally contain the same information as required for an initial permit.

§6.04. Permit Term, Renewal and Expiration

(A) Permits will be issued for an initial term of one (1) year.

(B) Renewals shall be valid for the term of one (1) or two (2) years, on a schedule established by the Department.

(C) Both initial and renewal permits issued under this Subchapter shall identify the expiration date.

§6.05. Technical Requirements

(A) Building Identification

Each building or structure within a gated community containing one or more dwelling units shall have separate identification and signage. Signage shall be visible from a distance of one hundred (100) feet and shall have sufficient visual contrast with the building or structure to be visible in both daylight and darkness, taking into consideration the prevailing lighting conditions present at the site. The signage shall be placed so as to be visible from the vehicular driving areas. The building/structure identifications shall be coordinated with the County “911” Coordinator.

(B) Lockboxes

Each vehicular gate to the gated community must have a lockbox within sight of the gate and in close proximity outside the gate. If there are one or more pedestrian gates, at least one pedestrian gate must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, or code to open the gate or a key switch or cable mechanism that overrides the key, card, or code that normally opens the gate and allows the gate to be opened manually. If different gates are operated by different keys, cards, or codes, the lockbox must contain:
(1) each key, card, or code, properly labeled for its respective gate; or,
(2) a single master key, card, or code or a key switch or cable mechanism that will open
every gate.

Access to a lockbox required by this section shall be limited to a person or agency providing fire-
fighting or emergency medical services or law enforcement for the county.

(C) Operation in the Event of Power Failure

If a gate is powered by electricity, it must be possible to open the gate if the gate loses electrical
power. The mechanism for opening the gate in the event of a power failure must be available
within the lockbox.

(D) Gate Accessibility Requirements

(1) In a gated community that has one or more vehicular gates, at least one vehicular gate
must be wide enough for fire-fighting vehicles, fire-fighting equipment, emergency
medical services vehicles, or law enforcement vehicles to enter; and at least one driveway
apron or entrance from the public right-of-way must be free of permanent obstacles that
might impede entry by a vehicle or equipment listed above.
(2) A pedestrian gate in a gated community must be located so as to provide firefighters, law
enforcement officers, and other emergency personnel reasonable access to each building.
CHAPTER 756 - RESERVED
CHAPTER 757 - RESERVED
CHAPTER 759 - RESERVED

CHAPTER 759 - RESERVED
CHAPTER 761 - ECONOMIC INCENTIVES FOR DEVELOPMENT ACTIVITIES

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern economic incentives given by the County for qualifying activities conducted under or in conjunction with a Development Authorization issued by the County.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapter 232.001.

§1.03. Types of Economic Incentives
Subject to approval of the Commissioners Court, the following types of economic incentives are authorized:

(A) Rebates on Application fees;
(B) Rebates on Usage fees;
(C) Ad valorem tax exemptions; and,
(D) Fee-in-lieu contributions.

§1.04. Qualifying Activities
Subject to acceptance by the Commissioners Court, the following types of activities qualify for economic incentives in conjunction with Development Authorizations issued by the Commissioners Court:

(A) Water conservation features;
(B) Open space preservation/allocation;
(C) Low intensity developments;
(D) Affordable housing;
(E) Construction of storm water quality management features;
(F) Rainwater harvesting facilities;
(G) Construction of groundwater recharge enhancement structures;
(H) Cedar/ash juniper managed removal plan;
(I) Boundary street improvements; and,
(J) Wastewater reuse plumbing to individual lots.

§1.05. Combined Activities
Multiple qualifying activities of the same or varying types may be incorporated into one project or one Development Authorization.
Sub-Chapter 2 - Application of Economic Incentives By County

Subject to acceptance by the Commissioners Court, the Applicant may request that portions of the economic incentive rebate be applied in the following manner:

(A) 50% of rebate may go to a dedicated fund for open space preservation as an offset to any required open space fee-in-lieu requirement.

(B) $100 of the County’s per lot portion will go the same dedicated fund.

Sub-Chapter 3 - Application and Approval Procedures

§3.01. Filing with Application for Development Authorization

At the time of the initial Application for a Development Authorization, the Applicant must identify all proposed components for which a qualifying economic incentive will be requested. This information shall be included as supplemental information in accordance with §701.7.03.

§3.02. Fees

All fees for applications requesting economic incentives shall be paid at the time the Application is submitted.

§3.03. Design and Cost Estimate Information

(A) Structural Improvements

For any structural improvements to be completed in conjunction with the initial development and for which the Applicant is requesting an economic incentive, the Applicant shall submit a design and cost estimate prepared by a Texas licensed professional engineer. The design and cost estimate information shall be in sufficient detail to allow the Department to evaluate the initial design and cost estimates and to allow the improvements to be verified as conforming to the original design following their construction.

(B) Non-Structural Improvements

For non-structural improvements for which the Applicant is requesting an economic incentive, the Applicant shall submit a detailed description and cost estimate in sufficient detail to allow the Department to verify the completion of the non-structural improvements.

§3.04. Inspection

The Applicant must contact the County Engineer for inspection of all improvements for which an economic incentive is requested.

Sub-Chapter 4 - Rebate Procedures

§4.01. Documentation

All economic incentive requests, except donations to the Open Space Preservation Fund, must be accompanied by an invoice certifying actual expenditures.

§4.02. Structural Improvements Completed in Conjunction with the Initial Development

Application fees for structural improvements completed in conjunction with the initial development shall be refunded when those improvements have been verified as complete.
§4.03. Structural Improvements Not Completed in Conjunction with the Initial Development
Application fees for structural improvements not completed in conjunction with the initial development shall be refunded when those improvements have been verified as complete. Partial refunds may be made based on the percentage completion or the number of units completed.

§4.04. Non-Structural Improvements
Application fees for non-structural improvements shall be refunded when the County has accrued the benefit from the proposed non-structural improvements.
CHAPTER 763 - RESERVED

CHAPTER 763 - RESERVED
CHAPTER 764 - RESERVED

CHAPTER 764 - RESERVED
CHAPTER 765 - CONSERVATION DEVELOPMENT

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern activities associated with the design and development of a Conservation Development, including construction of infrastructure and utilities, the construction and dedication of features to the County for maintenance and operation, and documenting and recording the requirements for these activities based on the approval of the Commissioners Court.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, 234, 241, 242 and 352 and under the Texas Water Code in Chapters 26 and 35.

§1.03. Designation of Conservation Development Not Required
No application for a Development Authorization shall be required to be a Conservation Development. Applications meeting the criteria or requirements set forth in this Chapter and other applicable Chapters shall be approved as a Conservation Development.

§1.04. Approval Required Prior to Construction
Approval of the Commissioners Court is required prior to the construction and development of a Conservation Development, unless excluded or exempted under State law or as exempted below.

§1.05. Purpose and Intent
The Commissioners Court has authorized special provisions for Conservation Development to accomplish the following objectives:

(A) To allow for greater flexibility and creativity in the design of developments;
(B) To encourage the permanent preservation of open space, ranch and agricultural lands, woodlands and wildlife habitat, natural resources and including aquifers, water bodies and wetlands, and historical and archeological resources; to promote interconnected greenspace and corridors throughout the community;
(C) To protect community water supplies;
(D) To encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
(E) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner;
(F) To facilitate the provision of community services in a more economical and efficient manner;
(G) To foster stewardship of the land and wildlife in the County; and,
(H) To preserve the vestiges of central Texas rural and natural character remaining in Hays County.

§1.06. Applicability of Other Chapters

An application for a Conservation Development shall meet all other applicable Chapters of these Regulations, except as specifically waived, exempted or modified under this Conservation Development Ordinance.

Sub-Chapter 2 - Definitions Specific to This Chapter

For the purposes of this Chapter the following terms shall have the corresponding meaning:

(A) Canyon Rimrock - a rim rock that is adjacent to a waterway and has a rock substrate that:
     (1) has a gradient that exceeds 60 percent for a vertical distance of at least four feet; and,
     (2) is exposed for at least 50 feet horizontally along the rim of the canyon.

(B) Commercial Development - all development other than conservation space, and single-family and duplex residential development.

(C) Conceptual Land Plan - a land plan(s) that is in a preliminary form and is prepared by a qualified professional land planner, landscape architect or professional engineer and intended primarily to illustrate the development of the Subject Property and identify the potential conservation space and development areas of the Subject Property based on an ecological assessment and the provisions of this Chapter.

(D) Conservation Development (CD) - a subdivision meeting the criteria set out in this Chapter.

(E) Conservation Space - land to be set aside and preserved from development as residential or commercial development within a conservation development. Conservation Space shall be classified as Primary or Secondary Conservation Areas or as Recreation Space.

(F) County Open Space Plan - a plan or set of community goals or guidelines adopted by Hays County to identify desirable areas or features for conservation within protected open space and establishing criteria for identifying, configuring and acquiring open space within Hays County. Examples of protected open space include land protected by conservation easement or fee simple ownership such as parkland, preserve land, open space parkland, conservation space, etc.

(G) Critical Environmental Features - features that are of critical importance to the protection of environmental resources, and include bluffs, canyon rim rocks, cave, sinkholes, springs and wetlands.

(H) Ecological Assessment - a study and evaluation of the property submitted for subdivision approval that is conducted by qualified environmental professionals, such as ecologists, biologists, geologists and archeologists, providing the information and covering the features identified in the Conservation Development Design Manual, and summarized in a report that includes several items including a site analysis map and narrative explanation also detailed in the Conservation Development Design Manual.

Sub-Chapter 2 - Definitions Specific to This Chapter

For the purposes of this Chapter the following terms shall have the corresponding meaning:

(A) Canyon Rimrock - a rim rock that is adjacent to a waterway and has a rock substrate that:
     (1) has a gradient that exceeds 60 percent for a vertical distance of at least four feet; and,
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(C) Conceptual Land Plan - a land plan(s) that is in a preliminary form and is prepared by a qualified professional land planner, landscape architect or professional engineer and intended primarily to illustrate the development of the Subject Property and identify the potential conservation space and development areas of the Subject Property based on an ecological assessment and the provisions of this Chapter.

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(H) Ecological Assessment - a study and evaluation of the property submitted for subdivision approval that is conducted by qualified environmental professionals, such as ecologists, biologists, geologists and archeologists, providing the information and covering the features identified in the Conservation Development Design Manual, and summarized in a report that includes several items including a site analysis map and narrative explanation also detailed in the Conservation Development Design Manual.
(I) Ecological Assets Management Plan - a written document that provides a plan to be followed in maintaining, improving and/or restoring the conservation space and its wildlife and meets the criteria provided in this Chapter.

(J) Historic Preservation Buffer - a buffer area established in order to maintain or protect an historic or culturally important site or land area, including archeological sites, from development and the unwanted impacts from adjacent human occupation or activities. The buffer is to remain undeveloped and should be maintained or restored to the maximum natural vegetative state practicable. An historic buffer commences at the most external edge or boundary of the historic structure or site and extends away from and surrounding the structure or site for the distance specified in this Chapter.

(K) Impervious Cover - roads, parking areas, buildings, swimming pools, rooftop landscapes and other impermeable construction covering the natural land surface. Impervious Cover shall be expressed as a percentage of the gross area of the Subject Property or the specific land area under consideration.

(L) Integrated Pest Management Plan - a written management plan that identifies the integrated pest management (IPM) practices to be used on or for the Subject Property. IPM is a continuous system of controlling pests (weeds, diseases, insects or others) in which pests are identified, action thresholds are considered, all possible control options are evaluated, and selected control(s) are implemented. Control options, which include biological, cultural, manual, mechanical and chemical methods, are used to prevent or remedy unacceptable pest activity or damage. Choice of control option(s) is based on effectiveness, environmental impact, site characteristics, worker/public health and safety, and economics. The goal of an IPM system is to manage pests and the environment to balance benefits of control, costs, public health and environmental quality. IPM takes advantage of all appropriate pest management options.

(M) Preferred Development Area - an area or location originally identified through a County sponsored community planning process and is intended to attract and accommodate higher or more intense levels of development and most particularly commercial development. These areas should also be seen as potential locations for the provision of centralized local government services. A Preferred Development Area must be accepted or designated as such by the Commissioners Court and may vary in size and intended levels of development from centers for neighborhood retail and/or multifamily development to regional multi-use town center locations.

(N) Primary Conservation Area(s) – land used for setbacks, set-asides, buffers or preserve areas to be preserved generally as undeveloped and undisturbed or minimally disturbed in response to a state or federal statute or under a Development Authorization issued by a Reviewing Authority or other authorized state or federal agency. Such setbacks, buffers or preserve areas are commonly required along or around critical environmental features. Local criteria and requirements for Primary Conservation Areas are found in the subdivision and/or environmental protection provisions of land development regulatory jurisdictions.

(O) Property Owners Association or Owners Association - a not for profit organization established for the purpose of owning and managing the common land or amenities of a...
items would include features that if lost, destroyed or negatively impacted would directly
Ecological features essential to the health of the ecosystem, including human life. Such
features, wetlands, mature closed canopy woodlands, native grass lands, etc.

Significant and/or Meaningful Features - those features or areas identified in an
ecological assessment and prioritized as most important for preservation per criteria or
requirements under this Chapter.

Ecological features essential to the health of the ecosystem, including human life. Such
items would include features that if lost, destroyed or negatively impacted would directly
or cumulatively pose a risk to the surrounding water and air quality and/or survival of
plant, wildlife and human communities. Examples of significant and/or meaningful
features/areas include functioning surface water systems and groundwater recharge
features, wetlands, mature closed canopy woodlands, native grass lands, etc.

Significant and/or Meaningful Features - those features or areas identified in an
ecological assessment and prioritized as most important for preservation per criteria or
requirements under this Chapter.

Ecological features essential to the health of the ecosystem, including human life. Such
items would include features that if lost, destroyed or negatively impacted would directly
or cumulatively pose a risk to the surrounding water and air quality and/or survival of
plant, wildlife and human communities. Examples of significant and/or meaningful
features/areas include functioning surface water systems and groundwater recharge
features, wetlands, mature closed canopy woodlands, native grass lands, etc.
(2) Historic and archeological sites, features or artifacts irreplaceable, unique and important to the character of the community. Such items include prehistoric occupation and burial sites and pioneer home or business/activity sites. These items can help in establishing a sense of place or origin and are often seen as contributing to the well-being, health and quality of life of a community.

(W) Trail(s) - a designated pedestrian way providing community connectivity and/or access to nature areas having minimal improvements necessary for health, safety and property protection and intended primarily for passive recreational use such as hiking, biking or walking.

(X) View Shed - an area of such size, depth and breadth as to afford panoramic scenic views from multiple locations along its perimeter and/or from accessible locations within its interior.

Sub-Chapter 3 - Application Procedures

§3.01. General Requirements and Application Procedures

Applications to the Commissioners Court for Conservation Developments pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapter 701 of these regulations.

§3.02. Fees

Applications for Conservation Developments shall be assessed a refundable fee upon submission, as established by the Commissioners Court. Fees paid shall be refunded to the Applicant upon the issuance of a DevelopmentAuthorization for the Conservation Development and the submission of a written request for refund submitted to the Department. Application fees for Conservation Development shall not be refunded if the Application is withdrawn or if the Application is issued a Development Authorization that is not for a Conservation Development. Any fees submitted with an Application for Conservation Development may be credited toward any other required fees in the event that a Development Authorization is issued that is not for a Conservation Development.

§3.03. Types of Conservation Developments

The following types of Development Authorizations authorized under these regulations shall be applicable to Conservation Developments:

(A) Subdivisions, processed in accordance with Chapter 705;
(B) Site Development Plans, processed in accordance with Chapter 711; and,
(C) Voluntary Conservation Easements, processed in accordance with this Chapter.

The County shall review and process the application as appropriate to the development activities included in the Application and as otherwise prescribed by these Regulations and applicable law.

§3.04. Applicability of Other Chapters

Except as specifically modified in this Chapter, the Applicant, Owner and Permittee for a Conservation Development is subject to the other applicable Chapters from these Regulations.
§3.05. Supplemental Information
In addition to the items required to be submitted with the Application in accordance with Chapter 701 and the applicable Chapter(s) under which the Conservation Development authorization is being requested, the Applicant shall submit the following information:

(A) An conceptual land plan for the proposed Conservation Development;
(B) A list of all legal documents necessary to preclude or limit development within the Conservation Development, including any restrictive covenants, conservation restrictions, Conservation Easements, excess conservation space/impervious cover transfer documents, and variance or waiver or exemption requests/applications, with an accompanying narrative explaining the document’s general provisions, purpose or justification;
(C) An Ecological Assessment report, including the following:
   (1) A site analysis map;
   (2) A site context map;
   (3) The most recently available aerial photos, but not older than four years old, of the site and of the context area; and,
   (4) Narrative discussion or explanations adequate to fully identify, explain and inform as to the nature of the land’s natural features and the rationale for their prioritization for protection within a conservation space area and meeting the terms or requirements identified in the Conservation Development Design Manual;
(D) Scenic view preservation plan;
(E) Owners association documents including any architectural and landscaping design standards or restrictive covenants meeting the requirements of this Chapter;
(F) An Integrated Pest Management Plan meeting the requirements of this Chapter;
(G) An Ecological Assets Management Plan meeting the requirements of this Chapter;
(H) Draft Conservation Development Agreement meeting the terms or requirements identified in the Conservation Development Design Manual; and,
(I) All additional information required by the Department to demonstrate compliance with the Conservation Development concept.

§3.06. Communication with Precinct Commissioner
The Applicant or the Applicant’s authorized agent for a Conservation Development is required to contact the Commissioner(s) in whose precinct(s) the proposed Subdivision is located prior to the submission of the Application.

§3.07. Pre-submittal Meeting
An Application for a Conservation Development may not be accepted by the Department for filing before the Applicant meets with the Department in a pre-submittal meeting. The purpose of the pre-submittal meeting is to acquaint the Department with the proposed development, including its ecological assessment and conceptual land plan(s), and to provide the Applicant
Chapter 765

Sub-Chapter 4 - Development Authorizations for Conservation Developments

§4.01. Types of Conservation Developments

The following types of Development Authorizations authorized under these regulations shall be applicable to Conservation Developments:

(A) Subdivisions; and,

(B) Manufactured Home Rental Community permits.

§4.02. Privation of Incentives

(A) Any incentive provided under this Chapter or other rights and benefits to an Applicant, Permittee, or Owner, or a prorated portion thereof, may be withheld at the discretion of the Department until:

1. A copy of the written confirmation of the construction or installation, and operation if applicable, of all resource conservation measures necessary to meeting the provisions of this Chapter is provided to the Department; or,

2. A resource conservation verification inspection has been completed by the Department, including the correction of the cause(s) for failure to pass a resource conservation verification inspection.

(B) Failure by the County to provide incentives as stipulated in a Conservation Development Agreement and subject to the agreement’s notice and cure provisions will entitle the Subject Property to be developed under the County rules and regulations in effect on the effective date the agreement.

Sub-Chapter 5 - Conservation Development Design

§5.01. Conservation Space

A Conservation Development shall include a minimum percentage of land to be designated as permanent Conservation Space, not to be further subdivided or developed, meeting the conditions specified below:

(A) A minimum of fifty percent (50%) of the Subject Property’s total acreage shall be designated as a single contiguous land area, lot or tract of Conservation Space that conforms to the following design criteria:

1. A Conservation Space shall not be less than one hundred and fifty (150) feet in width at any point except for scenic or historic preservation buffers as allowed in this Subchapter below;

2. A Conservation Space shall not be less than ten (10) acres in size;

(B) Failure by the County to provide incentives as stipulated in a Conservation Development Agreement and subject to the agreement’s notice and cure provisions will entitle the Subject Property to be developed under the County rules and regulations in effect on the effective date the agreement.
(3) Impervious Cover within or adjoining the Conservation Space plus a continuous or surrounding undisturbed buffer of at least twenty-five (25) feet from the Impervious Cover’s external most edge shall not be included in calculating or meeting the Conservation Space requirements of this Chapter;

(4) Areas within rights-of-way, access easements, utility easements or any other granted property right or dedication that allows the alteration or disturbance of land or vegetation of the property plus a continuous or surrounding undisturbed buffer of at least twenty-five (25) feet from the potential alteration or disturbance right’s external most edge shall not be included in calculating or meeting Conservation Space requirements;

(5) Adequate access to the Conservation Space by way of Public Roadways or usable access easements not less than twenty (20) feet in width will be dedicated to the public for use by the County and the Permittee;

(6) Scenic or Historic Preservation Buffer areas connected to Conservation Space and having a consistent width of at least one-hundred and fifty (150) feet may be included in the Conservation Space acreage if it also meets the other Conservation Space requirements of this Chapter;

(7) Scenic or Historic Preservation Buffer areas disconnected from Conservation Space or having any portion less than one-hundred and fifty (150) feet in width may account for up to five percent (5%) of the Conservation Space acreage requirement of this Chapter; and,

(8) The Conservation Space requirements of this Chapter may be met through the transfer of excess Conservation Space from another property as provided in Subchapter 9 of this Chapter and under such transfer requirements or guidelines as may be established by the County.

(B) No more than fifty percent (50%) of the Conservation Space requirement of §765.3.01(A) above is to be land that is mandated to be preserved as Primary Conservation Area.

(C) The Conservation Space shall be designed to include the Significant and/or Meaningful Features for preservation through an Ecological Assets Management Plan submitted with or prior to the Conservation Development Application. The Ecological Assets Management Plan shall allocate as Conservation Space at least seventy-five percent (75%) of the Significant and/or Meaningful Features or area identified in the Ecological Assessment as requiring preservation.

(D) The design of a Conservation Space may be adjusted or modified by the County through a variance without exceeding the applicant’s proposed conservation space total acreage or materially reducing the proposed net economic benefit to the applicant from development of the property as a Conservation Development for any of the following reasons:

(1) To include preferred ecological or cultural features;

(2) To maximize the ecological value of habitat areas;

(3) To improve the connectivity of the Conservation Space with current or potential conservation and open space on adjacent or contiguous land;

(4) To reduce Conservation Space fragmentation and provide for or improve the connectivity of Conservation Space within the Conservation Development;
undisturbed and undeveloped land with the following characteristics:

A Conservation Development shall include Scenic and Historic Preservation Buffers of §5.02.

(E) All Conservation Space within a Conservation Development must be designated in a Conservation Easement or other appropriate legal instrument that governs subsequent subdivision or development of the Conservation Space in perpetuity. These legal instruments shall address the following issues:

(1) Identification of the person that will exercise the rights under the Conservation Easement;

(2) Identification of allowable future uses of the property subject to the Conservation Easement and any prohibitions on development activities necessary to comply with the intended uses and these Regulations; and,

(3) Any financial arrangements made between the parties to ensure compliance with the requirements of the easement and these Regulations.

§5.02. Scenic and Historic Preservation Buffers

A Conservation Development shall include Scenic and Historic Preservation Buffers of undisturbed and undeveloped land with the following characteristics:

(A) Boundary roadways adjacent to the Subject property and roadways within the Subject Property identified in a regional transportation plan approved by the County or identified as Arterials or Major Collectors under Chapter 721 of these Regulations shall have the following Scenic Preservation Buffers on the Subject Property:

(1) at least fifty (50) feet for single-family or duplex development; and,

(2) at least seventy-five (75) feet for commercial development;

(B) The perimeter of the Subject Property not adjacent to the roadways identified in §765.3.02(A) above shall have a Scenic Preservation Buffer of at least fifty (50) feet;

(C) A preserved historic or archeological site that is determined to be a Significant and/or Meaningful Feature shall have an Historic Preservation Buffer of at least one hundred (100) feet;

(D) Limited development within a Scenic Preservation Buffer is allowed for approved directional or entry signs, underground utilities, trails, drainage facilities and driveways or access drives that run perpendicular to boundary roadways or the property’s perimeter;

(E) Natural vegetative cover within a Scenic or Historic Preservation Buffer shall be retained or restored to the maximum extent practicable and Scenic Preservation Buffers along...
boundary roadways shall be landscaped with native trees or other vegetation so as to obscure the property’s buildings and other structures to the maximum extent practicable;

(F) Scenic or Historic Preservation Buffers shall not be included in any lot intended for residential or commercial development; and,

(G) Wastewater disposal or application is prohibited in Historic Preservation Buffers, but is allowed in Scenic Preservation Buffers, if otherwise in compliance with these Regulations.

§5.03. Ecological Assets Management Plan
Conservation Space within a Conservation Development must be managed and maintained under an approved Ecological Asset Management Plan that meets the standards and criteria established in this Chapter.

§5.04. Impervious Cover
(A) Impervious cover within the Subject Property of a Conservations Development shall conform to the following criteria:

(1) For Subject Property within the Edwards Aquifer Recharge Zone, impervious cover existing or to be developed shall not exceed fifteen percent (15%);

(2) For Subject Property outside of the Edwards Aquifer Recharge Zone impervious cover existing or to be developed shall not exceed twenty percent (20%);

(3) For the purposes of this Chapter, Impervious Cover shall be calculated on a gross site area basis in accordance with the TCEQ “Edwards Aquifer Technical Guidance Manual,” the LCRA “Highland Lakes Ordinance, Water Quality Management Technical Manual,” or other industry standard procedure acceptable to the County;

(4) For the purposes of this Chapter, Trails within a Conservation Space shall not be considered as Impervious Cover;

(5) For the purposes of this Chapter, historic or archeological structures or their remnants and stone walls shall not be considered as Impervious Cover; and,

(6) The Impervious Cover requirements of this section may be met through the transfer of excess impervious cover from another property as provided in Subchapter 9 of this Chapter and under such transfer requirements or guidelines as may be established by the County.

§5.05. Conservation Roadway and Driveway Design Standards
The roadway standards in Chapter 721 shall apply to Conservation Developments under this Chapter.

§5.06. Requirements for Property Owners Associations
Property owners association covenants, conditions and restrictions required by this Chapter shall be adopted and enforced for all Conservation Developments approved under this Chapter.
§6.01. Energy Conservation

(A) All new residential construction within the property shall be designed and built to achieve at least a fifteen percent (15%) energy use savings above the State of Texas Energy Code requirements or shall be in attainment of the minimal standards of the Environmental Protection Agency’s Energy Star program.

(B) All new commercial development construction within the property shall be designed and built to achieve at least a twenty percent (20%) energy use savings above the State of Texas Energy Code requirements.

§6.02. Water Conservation

The following water conservation provisions shall be incorporated into the building and landscaping designs of the Conservation Development:

(A) All new construction within a Conservation Development shall be designed and built to achieve at least fifteen percent (15%) indoor water use savings above the Environmental Performance Standards for Plumbing Fixtures, Chapter 372 of the Texas State Health and Safety Code or the plumbing or fire code requirements of the Reviewing Authority, whichever is more stringent;

(B) Unless otherwise approved by the County, plumbing fixtures and/or their installation shall meet the following:

1. Toilets shall be selected from the City of Austin, Texas, Water Conservation Program Rebate Toilets list; and,
2. Total flow rate for all shower heads installed in a shower enclosure shall not exceed 2.75 gallons of water per minute;

(C) All installed landscaping and landscape irrigation systems shall be installed to meet the criteria or requirements in the Conservation Development Design Manual;

§6.03. Materials Conservation

All new construction (building envelope, framing and flooring) within the property shall be constructed of at least twenty percent (20%) recycled or reclaimed content material or materials manufactured from renewable resources.

§6.04. Alternative Conservation Standards

(A) New residential construction in a Conservation Development shall satisfy the energy, water and materials conservation requirements of this Chapter if they meet standards generally established to achieve the conservation levels identified above that are issued by the following entities or programs:

1. National Association of Home Builders (NAHB) Green Building Guidelines or an NAHB approved Texas program;
2. U.S. Green Building Council, LEED Homes Program, as finally adopted;
3. City of Austin, Austin Electric Green Building Program Residential Two Star Rating;

(B) All new commercial development construction within the property shall be designed and built to achieve at least a twenty percent (20%) energy use savings above the State of Texas Energy Code requirements.

§6.02. Water Conservation

The following water conservation provisions shall be incorporated into the building and landscaping designs of the Conservation Development:

(A) All new construction within a Conservation Development shall be designed and built to achieve at least fifteen percent (15%) indoor water use savings above the Environmental Performance Standards for Plumbing Fixtures, Chapter 372 of the Texas State Health and Safety Code or the plumbing or fire code requirements of the Reviewing Authority, whichever is more stringent;

(B) Unless otherwise approved by the County, plumbing fixtures and/or their installation shall meet the following:

1. Toilets shall be selected from the City of Austin, Texas, Water Conservation Program Rebate Toilets list; and,
2. Total flow rate for all shower heads installed in a shower enclosure shall not exceed 2.75 gallons of water per minute;

(C) All installed landscaping and landscape irrigation systems shall be installed to meet the criteria or requirements in the Conservation Development Design Manual;

§6.03. Materials Conservation

All new construction (building envelope, framing and flooring) within the property shall be constructed of at least twenty percent (20%) recycled or reclaimed content material or materials manufactured from renewable resources.

§6.04. Alternative Conservation Standards

(A) New residential construction in a Conservation Development shall satisfy the energy, water and materials conservation requirements of this Chapter if they meet standards generally established to achieve the conservation levels identified above that are issued by the following entities or programs:

1. National Association of Home Builders (NAHB) Green Building Guidelines or an NAHB approved Texas program;
2. U.S. Green Building Council, LEED Homes Program, as finally adopted;
3. City of Austin, Austin Electric Green Building Program Residential Two Star Rating;
considered a Conservation Development if it is within a preferred development area and meets
Notwithstanding any other provisions of this Chapter, commercial development shall be
§7.02. Development Areas. The Department shall maintain and publish the locations of Preferred
The provisions of this Subchapter shall relate to Conservation Developments in Preferred
§7.01. Designation of Preferred Development Areas
The provisions of this Subchapter shall relate to Conservation Developments in Preferred
§7.02. Commercial Development as Conservation Development
Notwithstanding any other provisions of this Chapter, commercial development shall be
considered a Conservation Development if it is within a preferred development area and meets
the following provisions:
(A) The requirements for Conservation Space as outlined in Subchapter 3 of this Chapter may
be modified as follows:

§6.05. Conservation Effort Verification
(A) Applicant and or the Permittee shall submit calculations showing building design and/or
proposed installations of resource conserving materials, fixtures, appliances and
equipment to meet the resource use reduction requirements of the above corresponding
conservation standards, guidelines and/or requirements of this Chapter;
(B) At or prior to the purchase or final acceptance of any new construction by a Permittee,
the developer or builder of the new construction shall certify to said Permittee in writing
the construction or installation, and operation if applicable, of all conservation measures
necessary to meeting the provisions of this Chapter in the new construction. The
certification shall be signed and dated by the final owner as their acceptance and
confirmation of the construction, installation and operability of the conservation
measures.
(C) The County shall retain the right to verify the construction or installation, and operation if
applicable, of any and all conservation measures proposed or planned in order to meet the
provisions of this Chapter through a building inspection up to twelve months from the
date of original occupancy of any said building.

Sub-Chapter 7 - Preferred Development Areas

§7.01. Designation of Preferred Development Areas
The provisions of this Subchapter shall relate to Conservation Developments in Preferred
Development Areas. The Department shall maintain and publish the locations of Preferred
Development Areas designated by the Commissioners Court.

§7.02. Commercial Development as Conservation Development
Notwithstanding any other provisions of this Chapter, commercial development shall be
considered a Conservation Development if it is within a preferred development area and meets
the following provisions:
(A) The requirements for Conservation Space as outlined in Subchapter 3 of this Chapter may
be modified as follows:

(4) Green Globes Environmental Assessment and Rating System; or
(5) Green building programs approved or sponsored by the Texas Association of Builders or
by the local land development regulatory jurisdiction.

(B) New commercial construction in a Conservation Development shall satisfy the energy,
water and materials conservation requirements of this Chapter if they meet the standards
generally established to achieve the conservation levels identified above that are issued
by the following entities or programs:
(1) U.S. Green Building Council, LEED certification;
(2) City of Austin, Austin Electric Green Building Program for Commercial Buildings.
(3) Green building programs approved or sponsored by the local land development
regulatory jurisdiction.

§6.05. Conservation Effort Verification
(A) Applicant and or the Permittee shall submit calculations showing building design and/or
proposed installations of resource conserving materials, fixtures, appliances and
equipment to meet the resource use reduction requirements of the above corresponding
conservation standards, guidelines and/or requirements of this Chapter;
(B) At or prior to the purchase or final acceptance of any new construction by a Permittee,
the developer or builder of the new construction shall certify to said Permittee in writing
the construction or installation, and operation if applicable, of all conservation measures
necessary to meeting the provisions of this Chapter in the new construction. The
certification shall be signed and dated by the final owner as their acceptance and
confirmation of the construction, installation and operability of the conservation
measures.
(C) The County shall retain the right to verify the construction or installation, and operation if
applicable, of any and all conservation measures proposed or planned in order to meet the
provisions of this Chapter through a building inspection up to twelve months from the
date of original occupancy of any said building.

Sub-Chapter 7 - Preferred Development Areas

§7.01. Designation of Preferred Development Areas
The provisions of this Subchapter shall relate to Conservation Developments in Preferred
Development Areas. The Department shall maintain and publish the locations of Preferred
Development Areas designated by the Commissioners Court.

§7.02. Commercial Development as Conservation Development
Notwithstanding any other provisions of this Chapter, commercial development shall be
considered a Conservation Development if it is within a preferred development area and meets
the following provisions:
(A) The requirements for Conservation Space as outlined in Subchapter 3 of this Chapter may
be modified as follows:
The Ecological Assets Management Plan shall allocate as Conservation Space at least twenty-five percent (25%) of the Significant and/or Meaningful Features or area identified in the Ecological Assessment as requiring preservation; or, for Conservation Space provided outside of the Subject Property’s Preferred Development Area, the Ecological Assets Management Plan shall allocate as Conservation Space at least seventy-five percent (75%) of the Significant and/or Meaningful Features or area identified in the Ecological Assessment as requiring preservation; or, for Conservation Space provided in a common or community plaza, square, or park within the Subject Property or other property as provided in Subchapter 9 of this Chapter and under such transfer requirements or guidelines as may be established by the County, and, for Conservation Space provided in a commons, community plaza, park or town square within the Subject Property, the Ecological Assets Management Plan shall allocate as Conservation Space at least twenty-five percent (25%) of the Significant and/or Meaningful Features or area identified in the Ecological Assessment as requiring preservation; or, the requirements for Conservation Space as outlined in Subchapter 9 of this Chapter may be modified as follows:

The requirements for Impervious Cover as outlined in Subchapter 3 of this Chapter may be modified as follows:

For subject Property within the Edward Aquifer Recharge Zone, Impervious Cover existing or to be developed shall not exceed thirty-five percent (35%); or, for Subject Property outside the Edwards Aquifer Recharge Zone, Impervious Cover existing or to be developed shall not exceed sixty-five percent (65%).
Sub-Chapter 8 - Conservation Development Agreement

§8.01. Agreement Required
The Permittee and the Owner shall enter into a Conservation Development Agreement with the County prior to or simultaneous with the issuance of the Development Authorization by the County. For Conservation Developments, a Development Authorization issued by the County shall not be effective until said Conservation Development Agreement is signed and recorded in the Official County Records. The Conservation Development Agreement shall commit the property to be developed only as a Conservation Development under the terms of this Chapter and shall contain such other conditions as are mutually acceptable to the Permittee, Owner, and the County. Said agreement shall entitle the Permittee and the Owner, their assigns and successors to development under the conditions of this Chapter, unless expired.

§8.02. Agreement Allowed
An Owner who wishes to assure their property’s future development is in compliance with the provisions of this Chapter, may, without applying for a Development Authorization, enter into a Conservation Development Agreement with the County. Said agreement shall entitle the property Owner, their assigns and successors to development under the conditions of this Chapter, to the same degree as a Conservation Development that is issued a Development Authorization. Acceptance of a Conservation Development Agreement by the County shall entitle the property covered by the agreement to be developed as a Conservation Development in accordance with the development regulations and process requirements in effect on the date the agreement is filed in the Official County Records.

§8.03. Agreement to Run With Land
A Conservation Development Agreement approved by the County and a property Owner shall run with the land and shall only be amended with the approval of the Commissioners Court. Said agreement shall be recorded in the Official Records of the County.

Sub-Chapter 9 - Off-site Transfers for Conservation Development

The following procedures govern the transfers of Conservation Space, Impervious Cover and other authorized Transfer Commodities used in conjunction with Development Authorizations for Conservation Development issued under this Chapter.

§9.01. Transfer Commodities
The following items shall qualify as transfer commodities for the purposes of this Chapter:
(A) Conservation Space in excess of that required under this Chapter; and,
(B) Unutilized Impervious Cover, up to the limits specified in this Chapter.

§9.02. Origin Sites Within the Jurisdiction of These Regulations
(A) A Subject Property that is located in Hays County within the jurisdiction of these regulations and outside of a Preferred Development Area that is approved as a Conservation Development with available transfer commodities may transfer credit for such available transfer commodities to other properties in Hays County that are within the same watershed or are contiguous to the Subject Property.
(B) A Subject Property that is located in Hays County within the jurisdiction of these regulations and within a Preferred Development Area that is approved as a Conservation Development with available transfer commodities may transfer credit for such available transfer commodities only to other properties in Hays County that are within the same designated Preferred Development Area.

(C) A Subject Property that is located in Hays County that is approved as a Conservation Development that conveys available transfer commodities to another property in Hays County or another location must document such conveyance within the Record Documents.

(D) If the conveyance of available transfer commodities from a property within the jurisdiction of the County has been authorized in a Development Authorization, and upon the written request of an Applicant, Owner or Permittee, the Department may issue a statement to other persons indicating that such conveyance has been authorized.

§9.03. Origin Sites Outside the Jurisdiction of These Regulations

(A) An Applicant may request the conveyance of transfer commodity credit from a property outside the jurisdiction of these regulations in the following instances:

(1) The property from which the transfer commodities are conveyed is within the same watershed or contiguous to the Subject Property; and,

(2) The Applicant provides documentation that the regulatory entities having jurisdiction over land development activities for the originating tract are aware of the nature and quantity of the transfer commodities being conveyed and that they do not object to such transfer.

(B) Approvals for the conveyance of transfer commodities from origin sites outside the jurisdiction of these regulations is solely at the pleasure of the Commissioners Court. The County is in no way obligated to accept such transfers.

(C) If the conveyance of available transfer commodities from a property outside the jurisdiction of the County has been authorized in a Development Authorization, the Department shall forward notice of the approval of such conveyance to the regulatory entities having jurisdiction over land development activities for the originating tract for which documentation has been supplied by the Applicant.
CHAPTER 766 - RESERVED

CHAPTER 766 - RESERVED
CHAPTER 769 - RESERVED

CHAPTER 769 - RESERVED
CHAPTER 770 - RESERVED

CHAPTER 770 - RESERVED
CHAPTER 771 - DEVELOPMENT AGREEMENTS

Sub-Chapter 1 - Applicability

§1.01. General Requirements
This Chapter shall govern the negotiation and use of development agreements between the County and persons seeking Development Authorizations from the County.

§1.02. Legal Authority
Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, 234, 241, 242 and 352 and under the Texas Water Code in Chapters 26 and 35.

§1.03. Purpose and Intent
The Commissioners Court has authorized special provisions for Development Agreements to accomplish the following objectives:

(A) To allow greater flexibility and creativity in the design of developments;
(B) To allow the County to provide incentives for desired development conditions that exceed the legal authority of these Regulations;
(C) To allow the County to enforce land use and development regulations other than those presented in these regulations;
(D) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner;
(E) To facilitate the provision of community services in a more economical and efficient manner;
(F) To include other lawful terms and considerations that the parties deem appropriate; and,
(G) To allow for phased development.

§1.04. Development Agreement Not Required
No Applicant requesting a Development Authorization from the County shall be required to utilize a Development Agreement. However, the Development Agreements authorized under this Chapter are intended to be voluntary agreements between the County and an Applicant or Permittee and will be implemented through one or more Development Authorizations.

§1.05. More Restrictive Agreement Allowed
An Owner who wishes to establish terms for their property’s future development that are more restrictive than those contained in these Regulations may enter into a Development Agreement with the County to enforce these restrictions. Said agreement shall subject the property Owner, their assigns and successors to the more restrictive development terms under the conditions of the approved Development Agreement, to the same degree as an issued Development Authorization. Acceptance of a Development Agreement by the County for the purpose of restricting development shall require the property covered by the agreement to be developed in accordance with the terms of said agreement. Restrictive Development Agreements will require the filing of an easement, the rights of which shall be held by the County, in the Official County...
Records. Nothing in this section shall be construed to authorize development activities that are not in compliance with state and federal law. This provision is specifically intended to be used in conjunction with the transfer of development rights, credits or commodities from one property to another, where the origin site (site from which the development rights or credits are taken) is located within Hays County, regardless of the location of the destination property.

§1.06. Applicability of Other Chapters
An Application for a Development Authorization that is subject to a Development Agreement shall meet all other applicable Chapters of these Regulations, except as specifically waived, exempted or modified under the applicable Development Agreement.

Sub-Chapter 2 - Application and Approval Procedures

§2.01. General Requirements
Appointments to the County for approval of a Development Agreement pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapter 701 of these Regulations.

§2.02. Application and Review Fees
The Commissioners Court may establish Application and review fees for Development Agreements, as set forth in Chapter 701 of these Regulations.

§2.03. Legal Form of Agreement
The Department shall coordinate the legal form of Development Agreements with the Hays County Criminal District Attorney’s office, or such other authorized legal representative as may be designated by the Commissioners Court. The Department may draft and publish a standardized legal form for a Development Agreement. The drafting, publishing or existence of such standardized legal form shall not create any legal obligation for the County in relationship to any particular agreement being considered. Each such agreement being considered for approval by the County shall be reviewed by the Hays County Criminal District Attorney’s office, or such other authorized legal representative as may be designated by the Commissioners Court.

Sub-Chapter 3 - Contents of the Development Agreement
Development Agreements used in conjunction with the issuance of Development Authorizations shall address the following issues:

§3.01. Parties to the Agreement
The Permittee and the Owner(s) of the Subject Property must be parties to the Development Agreement with the County. The County may require such other persons to be party to the Development Agreement as the County deems necessary to ensure that the development activities are conducted in accordance with the Development Authorization and the Development Agreement. Unless approved by the Commissioners Court, a Development Agreement is valid only by and between the original parties to the agreements, and creates no third party rights or contracts with persons who are not parties. Requests to transfer must be submitted in writing to the Department and may only be approved by the Commissioners Court.

Hays County Development Regulations Adoption Version – August 18, 2009

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§3.02. Responsibility of the Parties
By executing a Development Agreement with the County, the Permittee, Owner and other parties agree to be bound by the terms of the Development Agreement and any related Development Authorizations, including any special provisions incorporated by the parties to the Development Agreement.

§3.03. Application Information
Development Agreements shall contain the following information from the Application documents:
(A) The legal names of the Applicant, Permittee, Owner and any other parties to the Agreement.
(B) The property location and description information included in the Application for the Subject Property to which the Development Agreement applies.
(C) The reference identifier issued by the Department for the Application to which the Development Agreement applies.

§3.04. Hold Harmless
Once a Development Agreement has been approved, the parties to the Development Agreement shall hold harmless the County and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of the activities authorized in the Development Agreement.

§3.05. Responsibility for Permitted Activities
Once approved, the Permittee shall be responsible for complying with the terms of the Development Agreement.

§3.06. Special Provisions
The Commissioners Court may incorporate reasonable special provisions into any Development Agreement to ensure compliance with these Regulations, and protection of public health, safety, welfare and the environment. Such special provisions shall be based on any of the requirements of these Regulations or on the County’s established legal authority.

§3.07. Expiration
Unless otherwise indicated within the Development Agreement, said agreement shall expire two (2) years from the date of approval by the Commissioners Court if none of the activities authorized in the Development Agreement have commenced within that timeframe. Expired Development Agreements are null and void.

§3.08. Notice of Other Regulatory Programs
To the extent that the Department is aware of other applicable regulatory programs, the Department may incorporate into a Development Agreement notices of the Permittee responsibility to comply with such other regulatory programs, in accordance with Subchapter 11 of Chapter 701.
Sub-Chapter 4 - Approval and Modification of Development Agreements

§4.01. Approval by Commissioners Court

Approvals of Development Agreements under these regulations shall be in the form of an ordinance passed by the Commissioners Court agreeing to the terms of such Development Agreement and authorizing the County Judge to execute the agreement on behalf of the County. The Court may also include in the approving ordinance another duly authorized representative, in lieu of the County Judge, to execute the agreement on behalf of the County.

§4.02. Signatories on Behalf of Parties

Signatories that execute a Development Agreement on behalf of other parties shall be duly authorized to execute. If the signatory on behalf of a party is not the actual party, the signatory shall furnish all necessary documentation to evidence that they are authorized to execute the document on behalf of the party and have the authority to bind the Party to the terms of the Development Agreement. Such documentation shall be of a legal form acceptable to the County, including a power of attorney, a resolution issued by the party’s governing body, or other appropriate legal documentation.

§4.03. Recording of Agreement

A Development Agreement approved by the Commissioners Court in conjunction with a Development Authorization shall not be effective until said Development Agreement is executed by all parties and is recorded in the Official County Records.

§4.04. Modifications to Agreement

Modifications, amendments and other changes to a Development Agreement shall only be authorized with the approval of the Commissioners Court.

Sub-Chapter 5 - Public Notice

§5.01. Notice Required

This sub-chapter shall apply to all Applications that include a Development Agreement.

§5.02. Combined Notice

Public notices required under this sub-chapter may be combined with any other public notices required under these Regulations or otherwise, provided such combined notice includes all of the items required under this sub-chapter.

§5.03. Contents of Notice

In addition to the applicable items required under Subchapter 9 of Chapter 701, the Written Notice and Published Notice required under this Chapter must include the following information:

(A) The date, time, and location where the Commissioners Court will consider the proposed Development Agreement;

(B) The identification of the parties to the proposed Development Agreement;

(C) Any provisions in the proposed Development Agreement that authorize development activities that would not otherwise be authorized under these Regulations; and,
(D) Identification of the items and corresponding costs in which the County will participate.

§5.04. Written Notice
After the date the Department posts the Development Agreement for consideration by the Commissioners Court, the Applicant shall notify affected political subdivisions and property owners in the proximity of the Subject Property prior to the Commissioners Court’s consideration of a Development Authorization under this Chapter in accordance with the requirements for Written Notice in §701.9.05.

§5.05. Published Notice
After the date the Department posts the Development Agreement for consideration by the Commissioners Court, the Applicant shall publish notice prior to the Commissioners Court’s consideration of a Development Authorization under this Chapter in accordance with the requirements for Published Notice in §701.9.09.
CHAPTER 773 - RESERVED

CHAPTER 773 - RESERVED
CHAPTER 775 - RESERVED
CHAPTER 776 - RESERVED

CHAPTER 776 - RESERVED
CHAPTER 777 - RESERVED
CHAPTER 778 - RESERVED

CHAPTER 778 - RESERVED
CHAPTER 781 - RESERVED

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CHAPTER 782 - RESERVED
CHAPTER 784 - RESERVED
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CHAPTER 787 - RESERVED
CHAPTER 789 - RESERVED  

CHAPTER 789 - RESERVED
CHAPTER 792 - RESERVED
CHAPTER 796 - RESERVED

CHAPTER 796 - RESERVED
CHAPTER 798 - RESERVED
CHAPTER 799 - REFERENCE DOCUMENTS

Sub-Chapter 1 - General Requirements

§1.01. Availability
The Department shall acquire and maintain copies of all reference documents utilized in conjunction with or referenced within these Regulations. These documents shall be made available for inspection by the public at no charge during normal business hours at location(s) designated by the Department. The Department may also make these documents available to the public using whatever means it may deem appropriate and as required by federal, state or local law, including posting on any electronic medium maintained or used by the County.

§1.02. Updates
Unless specifically indicated otherwise, it is the intent of the Commissioners Court that the latest edition or update of each document be utilized in conjunction with these Regulations.

§1.03. Compliance with Copyright Restrictions
Certain reference documents utilized may be subject to copyright restrictions. The Department shall respect applicable copyright restrictions and may not allow copying of copyrighted materials. All copyrighted reference material referenced within these Regulations and within the possession of the County shall be made available for inspection by the public as outlined above.

§1.04. Fees for Copying and/or Reproduction
The Commissioners Court shall establish and the Department shall collect the established fees for copying and/or reproduction of reference documents.

Sub-Chapter 2 - County Technical and Administrative Documents

§2.01. Availability
The Department shall make available for inspection by the public at no charge copies of the County reference documents listed below. These documents shall also be made available to the public at no charge by posting on an electronic medium maintained or used by the County.

§2.02. Application and Guidance Documents
The Department shall make available to the public the following adopted County application and guidance documents, utilized in conjunction with these Regulations. One (1) hard copy shall be provided at no charge to each person requesting a copy. Additional hard copies may be subject to fees.

(A) Application Forms
(B) Conservation Easement Standard
(C) Development Agreement Standard
(D) Digital Data Submittal Requirements
(E) Fees and Charges
(F) Financial Assurance Mechanism Standards
§2.03. Technical Manuals, Plans and Specifications

The Department shall maintain the following adopted County technical manuals, plans and specifications, utilized in conjunction with these Regulations: Copies of these documents may be obtained by paying the established fees.

(A) Conservation Development Design Manual
(B) Erosion and Sedimentation Controls Manual
(C) Habitat Conservation Plan
(D) Open Space Plan
(E) Roadway Construction Specifications

§3.01. Availability

The Department shall make available for inspection by the public at no charge copies of all statutes, regulations and ordinances of other governmental entities that are referenced in these Regulations. Copies of these documents shall be made available to the public at no charge either by posting the actual documents or links to the documents on an electronic medium maintained or used by the County. Copies of these documents may be obtained by paying the established fees.

(A) U.S. Endangered Species Act of 1973
(B) U.S. Coastal Barrier Resources Act
(C) U.S. Flood Insurance Program Regulations
(D) U.S. Water Pollution Control Act
(E) Texas Water Code,
(F) Texas Health and Safety Code
(G) Texas Local Government Code
(H) Texas Occupations Code (TOC)
   (1) Texas Engineering Practice Act (TOC Chapter 1001)
   (2) Texas Architectural Practice Act (TOC Chapter 1051)
§3.03. TCEQ Regulations
The Department shall make available the following TCEQ regulations, utilized in conjunction with these Regulations:
(A) 30 TAC 213 Edwards Aquifer Rules
(B) 30 TAC 230 Water Availability
(C) 30 TAC 285 On-Site Sewage Facilities
(D) 30 TAC 290 Public Water Systems
(E) 30 TAC 293 Groundwater Conservation Districts
(F) 30 TAC 294 Priority Groundwater Management Areas
(G) TCEQ Construction Site Storm Water Permitting Program
(H) TCEQ Municipal Separate Storm Sewer System (MS4) Permitting Program

§3.04. Local Ordinances
The Department shall make available the following local ordinances, utilized in conjunction with these Regulations:
(A) Buda Water Quality Ordinance
(B) Dripping Springs Water Quality Ordinance
(C) Kyle Water Quality Ordinance
(D) San Marcos Environmental Ordinances
(E) LCRA Highland Lakes Watershed Ordinance

Sub-Chapter 4 - Standards and Guidance Documents
The Department shall make available the following reference standards and guidance documents, utilized in conjunction with these Regulations: Copies of these documents shall be made available to the public at no charge either by posting the actual documents or links to the documents on an electronic medium maintained or used by the County. Copies of these documents may be obtained by paying the established fees, subject to applicable copyright restrictions.
(A) American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets
(B) American Water Works Association (AWWA) Residential End Uses of Water
(C) City of Austin, Texas, Standards:
(1) Drainage Criteria Manual
(2) Electric Green Building Program
(3) Environmental Criteria Manual
(D) Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps and Flood Insurance Rate Maps
(E) Green Globes Environmental Assessment and Rating System
(F) Lower Colorado River Authority (LCRA) “Water Quality Management Technical Criteria”
(G) National Association of Home Builders (NAHB) Green Building Guidelines
(H) National Sanitation Foundation (NSF)/American National Standards Institute (ANSI):
   (1) Standard 40
   (2) Standard 46
(J) Texas Department of Transportation Standards:
   (1) Manual on Uniform Traffic Control Devices
   (2) Standard MB-06
   (3) Survey Manual
(K) Texas Water Development Board (TWDB) Manual on Rainwater Harvesting
(L) U.S. Green Building Council, LEED Homes Program
Hunt County Subdivision Regulations

SECTION I
Authority

These regulations are adopted under the authority of the Constitution and the laws governing the State of Texas.

SECTION II
Purpose

On March 25, 1999 the Hunt County Commissioners Court approved the adoption of subdivision regulations recognizing that public necessity required the Court to encourage quality growth and development in ways to protect the health, safety, and economic well-being of current and future land owners and residents of Hunt County, Texas.

On March 23, 2009 the Hunt County Commissioners Court finds that it is in the best interest of the residents of Hunt County to adopt the following updated regulations, known as the Hunt County Subdivision Regulations, pursuant to the Texas Local Government Code. They have been prepared with the following purpose:

1. These regulations are to provide for the orderly, safe, and healthful development of the land in unincorporated areas of Hunt County, Texas.

2. These regulations are to ensure the establishment of rules and guidelines for the subdivision of property, and to ensure that newly created parcels of land conform to legal statutes.

3. These regulations are intended to prevent Hunt County from being burdened with substandard streets and roadways in the future, thereby protecting the taxpayers from unnecessary maintenance costs.

4. These regulations are to ensure that the residents of Hunt County receive the necessary services for the supply of water, and that new development will be served by adequate sewage treatment systems and drainage facilities.

5. These regulations are intended to provide information to the developer, and assist in the preparation of plats and approvals of future development.

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SECTION III
Definitions

ALLEY – a minor public right-of-way which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a Street and not intended to provide the primary means of access to abutting lots.

BUILDING or SETBACK LINE – a line established, in general, parallel to the front street line. No building or structure shall be permitted in the area between the building line and the street right of way.

COMMERCIAL PROPERTY – real estate that includes income-producing property, such as office buildings, restaurants, shopping centers, hotels, industrial parks, warehouses, and factories and/or is zoned for business or industrial use.

COMMERCIAL or INSTITUTIONAL FACILITY – any building that is not utilized as a single family dwelling.

COMMISSIONERS COURT – the Hunt County Commissioners Court.

COUNTY WASTE WATER ORDER – a waste water order officially adopted by Hunt County in accordance with authorizing statutes.

COUNTY FLOODPLAIN REGULATIONS – a floodplain management regulation adopted by Hunt County in accordance with authorizing statutes.

CUL-DE-SAC – a street or road having one outlet to another street with a vehicular turnaround at the remaining end.

DEVELOPER – any owner of property who wishes to divide it into two or more smaller tracts, including persons, corporations, organizations, estates, trusts, partnerships, agents, associates, and other entities which under take the activities covered by these regulations.

DRAINAGE PLAN – calculations and drawings showing the existing watershed characteristics and site water flow conditions, and the effects the proposed subdivision will have onsite and offsite to adjacent and surrounding land.

Hunt County Subdivision Regulations

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Hunt County Subdivision Regulations

EASEMENT – a right given by the owner of a parcel of land to another person, public agency, or private corporation for specific and limited use of that parcel.

ENGINEER – any person registered and currently licensed to practice engineering by the Texas State Board of Registration for Professional Engineers.

EXCEPTION – a variation or deviation from approved standards, rules, regulations.

EXTRATERRITORIAL JURISDICTION (ETJ) – that area outside of, but adjacent and contiguous to, the corporate limits of any city recognized by state statute as the area a city, based on population, could enforce its’ own subdivision rules and regulations upon.

FLOOD INSURANCE RATE MAP – an official map of a community, on which the Federal Emergency Management Administration (FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to a community.

FLOODPLAIN – Generally, any land area susceptible to being inundated by floodwaters. Specifically, the relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water, which has been or may be covered temporarily by flood water. Floodplains are typically assigned a recurrence interval (i.e., the 100-year floodplain) which defines the magnitude of the flood event that causes the inundation. The 100-year floodplain is the area subject to flood for the 100-year flood.

100-YEAR FLOODPLAIN – any area susceptible to inundation by flood waters from any source and subject to the statistical 100-year (has a 1% chance of flooding in any given year).

FLOODWAY – the channel of a river or other watercourse, and the adjacent areas, within a portion of the 100-year floodplain, that must be preserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot above the 100-year flood elevation before encroachment in the 100-year floodplain.

INSPECTION PERSONNEL – any person designated by the Hunt County Commissioners Court to perform inspections under the requirements of the Hunt County Subdivision Regulations.

LIEN HOLDER – person or entity holding, or benefiting from holding, the right to sell the property of a debtor as security for payment of a debt.

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EXTRATERRITORIAL JURISDICTION (ETJ) – that area outside of, but adjacent and contiguous to, the corporate limits of any city recognized by state statute as the area a city, based on population, could enforce its’ own subdivision rules and regulations upon.

FLOOD INSURANCE RATE MAP – an official map of a community, on which the Federal Emergency Management Administration (FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to a community.

FLOODPLAIN – Generally, any land area susceptible to being inundated by floodwaters. Specifically, the relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water, which has been or may be covered temporarily by flood water. Floodplains are typically assigned a recurrence interval (i.e., the 100-year floodplain) which defines the magnitude of the flood event that causes the inundation. The 100-year floodplain is the area subject to flood for the 100-year flood.

100-YEAR FLOODPLAIN – any area susceptible to inundation by flood waters from any source and subject to the statistical 100-year (has a 1% chance of flooding in any given year).

FLOODWAY – the channel of a river or other watercourse, and the adjacent areas, within a portion of the 100-year floodplain, that must be preserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot above the 100-year flood elevation before encroachment in the 100-year floodplain.

INSPECTION PERSONNEL – any person designated by the Hunt County Commissioners Court to perform inspections under the requirements of the Hunt County Subdivision Regulations.

LIEN HOLDER – person or entity holding, or benefiting from holding, the right to sell the property of a debtor as security for payment of a debt.
Hunt County Subdivision Regulations

LIEN HOLDER’S CONSENT – express approval or acceptance of what is planned, or done, by another from the person or entity holding, or benefiting from holding, the right to sell the property of a debtor as security for payment of a debt.

LOT – a distinct and separate tract or parcel of land being a part of a larger tract of land and having frontage on a street or road which is then, or in the future may be, offered for sale, conveyance, transfer, or improved separately from the remainder of any part of the larger tract, and generally intended to be occupied by one building or a group of buildings.

MANUFACTURED HOME RENTAL COMMUNITY (MHRC) – a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

ON-SITE SEWAGE FACILITY (OSSF) – all systems and methods used for the disposal of sewage and wastewater on a specific site other than an organized disposal system operated under a valid TCEQ permit.

OWNER – the owner of real property subject to a proposed or existing subdivision.

PAVEMENT WIDTH – the portion of a street or road with an improved surface intended for vehicular traffic, but not to include shoulders, parkways, ditches, or similar parts of a right of way not intended or used for vehicular traffic.

PLAT – a map depicting the division or subdivisions of land into, lots, blocks, parcels, tracts, or other portions. A replat will be considered a plat.

PLAT, PRELIMINARY – one or more drawings showing the physical conditions of a tract of land and the surrounding area intended to be subdivided. This plat shall show the developer’s intended development program in order to assure that all regulations are complied with.

PLAT, FINAL – a map or drawing and any accompanying material of a proposed land subdivision prepared in a form suitable for filing in the County records and prepared as described in these Regulations.

PLAT, SHORT PLAT PROCEDURE – a review process for a plat containing lots with frontage on an existing street or road of required right of way width, and not requiring any additional streets, roads, or other public easements in order to comply with these regulations. Land or surrounding lands that, due to topography and/or location, are deemed to require submission of a drainage plan will NOT be subdivided as a short plat.

Hunt County Subdivision Regulations

LIEN HOLDER’S CONSENT – express approval or acceptance of what is planned, or done, by another from the person or entity holding, or benefiting from holding, the right to sell the property of a debtor as security for payment of a debt.

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PRESCRIPTIVE ROAD or RIGHT OF WAY – a road or right of way that becomes a county maintained road or right of way by means of continuous public use and County maintenance over a statutorily defined time period.

REGULATIONS – refers to the Hunt County Subdivision Regulations.

REPLAT – any map, drawing, or plan to show further subdivision of any part of a previously platted subdivision, addition, lot, tract, or parcel of land which had been recorded of record in the County plat records and which may be in either preliminary or final plat form.

RIGHT OF WAY – generally, the entire platted, deeded, or dedicated public street or alley which exists between two property lines, whether improved or not, but may also refer to any other public way or portion thereof. In some instances, the term “right of way” may describe property for public use through prescriptive rights as identified or limited by legal precedent in the State of Texas.

SHALL – mandatory and not discretionary.

SINGLE FAMILY DWELLING – a structure that is either built on, or brought to, the development site for use as a residence for one family.

SPECIAL FLOOD HAZARD AREA (SFHA) – the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year according to the Flood Insurance Rate Map.

25-YEAR STORM FREQUENCY - A storm event with a four (4) percent chance of being equalled or exceeded in any given year. Defined in general to be 5.5 inches in 24 hours.

STREET or ROAD, PUBLIC – any area, parcel, or strip of land which provides vehicular access to adjacent property or land whether designated as a street, road, avenue, lane, thoroughfare, boulevard, place, drive, court, loop, or however otherwise designated, and which is either dedicated or granted for public purposes or acquired for public use by prescription. (Not all Public Road are County Roads nor are they all maintained by the County. See Definition of Street or Road, County)

STREET or ROAD, BOUNDARY/BORDER – a street or road which either exists or will be created wherein a subdivision as herein defined is partially bounded on one or more sides by such street or road and/or where this type of street has or will have a common frontage along adjoining property which is not a part of the land being considered for platting or subdivisions.
Hunt County Subdivision Regulations

STREET, COLLECTOR – a street or road which connects thoroughfare or arterial streets with local streets.

STREET, COUNTY (ROAD) – a public street or road which has been accepted for maintenance purposes by the Hunt County Commissioners Court, whether acquired by prescription, dedication, or statutory means, or originally constructed by the County. The term “street” and “road” are used interchangeably for the purpose of these regulations.

STREET, LOCAL – a street or road that primarily provides direct access to lots within a subdivision.

STREET, PRIVATE – a road or street that has not been accepted by the Hunt County Commissioners Court for maintenance. Some private roads may have been dedicated to the public (see definition of Street or Road, Public). Others may not be dedicated to the public and are under private ownership. In either case, the County is not responsible for maintenance.

STREET, ARTERY – a street or road that will serve vehicular traffic beyond the limits of the subdivision, connecting subdivisions with commercial or retail areas, schools, different cities or remote areas or which serves as a principal connecting street with State or Federal highways, farm to market roads or major thoroughfares shown or projected on current transportation plans of the Texas Department of Transportation.

SUBDIVIDER – any person, firm, corporation, partnership, association, or any similar individual or group of agents thereof, who divide or propose to divide land so as to constitute a subdivision, whether or not the individual or group is also a developer of the subdivision.

SUBDIVISION – the division of any tract or parcel of land into two or more parts to lay out any division of the tract, including an addition, lots, or streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to the public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alleys, squares, parks, or other parts. A division includes a division using metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract for sale or other executory contract to convey, or by using any other method.

SURVEYOR – a person licensed to practice surveying by the Texas Board of Professional Land Surveying.

TCEQ – the environmental agency for the State of Texas.

Hunt County Subdivision Regulations

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SURVEYOR – a person licensed to practice surveying by the Texas Board of Professional Land Surveying.

TCEQ – the environmental agency for the State of Texas.
TRACT, PARENT – the original land tract owned by the developer prior to any subdivision.

TRACT, DAUGHTER – any of the tracts created by the subdivision of a parent tract and including the remaining part of the parent tract.
SECTION IV
Grandfather Clause

Requirements changed or added to this version of the Subdivision Regulations are not applicable to developments approved by the Hunt County Commissioners’ Court prior to the date the Court adopts the Regulations.

SECTION V
Platting Procedure

1. Plat Required. The owner of a tract of land located within Hunt County, and outside the limits of an incorporated municipality, MUST have a plat of the subdivision prepared if the owner divides a tract into two or more parts to lay out:
   A. a subdivision of the tract, including an addition;
   B. lots; or
   C. streets, alleys, squares, parks or other parts of the tract intended to be dedicated public use, or for the purchasers or owners of lots fronting on or adjacent to the streets, squares, parks, or other parts.

2. A division of a tract under Section IV(1) includes a division regardless of whether it is made by using a metes and bounds description in a deed conveyance, or in a contract for a deed, or by using a contract of sale, or other executory contract to convey, or by the use of any other method.

3. The only exceptions to the requirement that a plat be prepared shall be those provided in the Texas Local Government Code 232.0015, Subsection (c), as modified by Subsection (d), or as stated in Texas Local Government Code 232.0015, Subsections (e), (f), (g), (h), (i), (j), and (k). The exceptions are outlined in Section VII of these Regulations.

4. Persons subdividing land in the unincorporated portions of Hunt County shall comply with this Section for plat approval. No grading of streets/roads or the sale of lots shall commence, nor shall any other associated construction be accomplished by the owner/developer upon land being subdivided prior to final plat approval, except by written authorization of the Commissioners Court. Approval from the Hunt County Commissioners Court is required before recording a final plat.

5. Preliminary Conference – at least ten (10) days prior to any subdivision of land and official submittal of a plat for review, it is required that the owner/developer or owner’s agent schedule a meeting with the Hunt County Commissioner with
precinct jurisdiction over the proposed subdivision. The owner or agent shall present a preliminary plat to show the street alignment and lot layout. The Commissioner will advise the owner/agent of any necessary corrections for official submittal of the plat to the Commissioners Court for approval.

6. Preliminary Plats:

A. The submission of a Preliminary Plat is necessary to:

1) eliminate the duplication of subdivision names and street names;
2) assure proper alignments of streets and drainage facilities;
3) assure that the provisions of the Floodplain Regulations will be complied with, and that no lot will have a drainage problem;
4) assure that the provisions of the Sewage Regulations will be complied with;
5) assure that all necessary permits or plan approvals have been or will be procured;

B. The owner/agent shall submit twelve (12) copies of a preliminary plat, a plat application form, required supporting documents, and applicable plat review fees to the Hunt County Commissioners Court and/or the administrative assistant to the Court.

C. In no event shall a Preliminary Plat be submitted to the Commissioners Court later than ten (10) days before the meeting at which the approval of the Hunt County Commissioners Court is requested. Unless the Commissioners Court takes opposing action, the Preliminary Plat will remain valid for a period of twelve (12) months from the date it is

precinct jurisdiction over the proposed subdivision. The owner or agent shall present a preliminary plat to show the street alignment and lot layout. The Commissioner will advise the owner/agent of any necessary corrections for official submittal of the plat to the Commissioners Court for approval.

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B. The owner/agent shall submit twelve (12) copies of a preliminary plat, a plat application form, required supporting documents, and applicable plat review fees to the Hunt County Commissioners Court and/or the administrative assistant to the Court.

C. In no event shall a Preliminary Plat be submitted to the Commissioners Court later than ten (10) days before the meeting at which the approval of the Hunt County Commissioners Court is requested. Unless the Commissioners Court takes opposing action, the Preliminary Plat will remain valid for a period of twelve (12) months from the date it is
submitted, after which time it will automatically become void. (note: all fees on a voided plat are non-refundable)

D. The owner/agent shall forward a copy of the plat to the County Sanitarian who will review the plat for compliance with sewage disposal regulations prior to presenting the plat to the Court for preliminary approval.

E. The owner/agent shall forward a copy of the plat to the County 911 Coordinator who will review the plat for compliance with Hunt County 911 Addressing requirements prior to presenting the plat to the Court for preliminary approval.

F. After review, the Commissioner with precinct jurisdiction will notify the owner/agent in writing of any necessary corrections to the plat. Such notification shall be made within ten (10) business days of official receipt of the preliminary plat.

G. The owner/agent will obtain approval from the Commissioner with precinct jurisdiction to place the plat on the next Commissioners Court Agenda. Commissioners Court will consider approval of the Preliminary Plat. This approval shall be required before the owner can proceed with Final Plat submittal and approval. The Commissioner with precinct jurisdiction shall provide written notification to the owner/agent of the Commissioners Court action within five (5) business days of the hearing.

H. If the property is located within the extraterritorial jurisdiction of a municipality, the developer shall be responsible for complying with the applicable regulations of the controlling entity per the provisions of the interlocal agreement. Generally, in cases where the County and municipality have regulations that differ, the more restrictive regulation will take precedence and be enforced.

I. Preliminary Plat approval by the Hunt County Commissioners Court does not constitute acceptance of the subdivision. It only authorizes the owner to proceed with preparation of the Final Plat. No grading of streets or construction is authorized in the subdivision before approval of the Final Plat by the Hunt County Commissioners Court, except as otherwise approved by the Court. Approval of a Preliminary Plat is valid for twelve (12) months. If a Final Plat is not approved within that period of time, the owner/agent will submit a new Preliminary Plat with all applicable fees and supporting documents for approval.

J. Every Preliminary Plat submission shall include the following:

submitted, after which time it will automatically become void. (note: all fees on a voided plat are non-refundable)

D. The owner/agent shall forward a copy of the plat to the County Sanitarian who will review the plat for compliance with sewage disposal regulations prior to presenting the plat to the Court for preliminary approval.

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H. If the property is located within the extraterritorial jurisdiction of a municipality, the developer shall be responsible for complying with the applicable regulations of the controlling entity per the provisions of the interlocal agreement. Generally, in cases where the County and municipality have regulations that differ, the more restrictive regulation will take precedence and be enforced.

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J. Every Preliminary Plat submission shall include the following:
1) Preliminary Plats shall be drawn on a 18" X 24" sheet, scale not to exceed 1" = 200'.

2) Name, address, and telephone number of the owner, surveyor, and/or engineer.

3) The seal and signature of the surveyor and/or engineer responsible for the preparation of the plat.

4) The proposed name of the subdivision and the names, locations, width, and dimensions of all proposed and existing streets, alleys, easements, parks and other public places, lot lines, and proposed land uses. No proposed name shall conflict with any other subdivision or street in Hunt County, or any other adjacent subdivision.

5) The location of the existing boundary lines of the subdivision and total acreage.

6) A vicinity map showing the subdivision location within the County and the relationship to the nearest existing roads and municipality.

7) The date the plat was prepared.

8) Scale, and North directional arrow.

9) The location of the 100-year floodplain, as defined by FEMA maps, and the identification of all lots, or any part of a lot, that is located within the 100-year floodplain. For subdivisions containing a floodplain, a note on the plat stating the following is required:

   "A Floodplain Development Permit will be required from Hunt County prior to any construction within the floodplain."

   The finished floor elevations must be shown for each lot located in the floodplain. If no part of the subdivision lies within the 100-year floodplain, then it shall be so noted.

10) The existing drainage areas upstream of the proposed subdivision, along with the drainage calculations of the amount

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2) Name, address, and telephone number of the owner, surveyor, and/or engineer.

3) The seal and signature of the surveyor and/or engineer responsible for the preparation of the plat.

4) The proposed name of the subdivision and the names, locations, width, and dimensions of all proposed and existing streets, alleys, easements, parks and other public places, lot lines, and proposed land uses. No proposed name shall conflict with any other subdivision or street in Hunt County, or any other adjacent subdivision.

5) The location of the existing boundary lines of the subdivision and total acreage.

6) A vicinity map showing the subdivision location within the County and the relationship to the nearest existing roads and municipality.

7) The date the plat was prepared.

8) Scale, and North directional arrow.

9) The location of the 100-year floodplain, as defined by FEMA maps, and the identification of all lots, or any part of a lot, that is located within the 100-year floodplain. For subdivisions containing a floodplain, a note on the plat stating the following is required:

   "A Floodplain Development Permit will be required from Hunt County prior to any construction within the floodplain."

   The finished floor elevations must be shown for each lot located in the floodplain. If no part of the subdivision lies within the 100-year floodplain, then it shall be so noted.

10) The existing drainage areas upstream of the proposed subdivision, along with the drainage calculations of the amount
of water coming into, across, and leaving the subdivision in sufficient detail to show any changes in the 100-year flood elevation across the proposed subdivision, and on the property both upstream and downstream from the proposed subdivision.

11) Existing topographic contours at ten (10) foot intervals. Contours of lesser intervals may be required to better determine topographical drainage.

12) The name of all adjacent property owners with the volume and page of recordation, and any adjacent subdivisions and streets including how the streets in the proposed subdivision may connect with other streets in the area.

13) Description, location, and dimensions of any and all proposed and existing utility, drainage, and pipeline easements within and adjacent to the proposed subdivision with applicable recordation shall be visible and apparent.

14) All maintenance responsibilities, whether private or by Hunt County, shall be noted on the plat.

15) Preliminary water and sewer plans, if applicable.

16) The name of the water, sewer, telephone, and electric utility companies providing service to the subdivision shall be noted on the plat. A statement shall be provided if sewage disposal is by individual on-site sewage facilities and/or water service by individual wells.

17) A certification letter from the water, sewer, telephone, and electric utility companies guaranteeing their intent to provide service to the proposed subdivision, and providing a time frame and cost estimate for the establishment of these services if applicable.

18) For subdivision proposing to use on-site septic systems for sewage treatment, a suitability study shall be performed on the property, and the study shall be submitted with the Preliminary Plat. The purpose of the study is to verify that all of the proposed lots in the subdivision will comply with the Hunt County regulations for on-site sewage facilities. The individual or company performing the study must be qualified to perform
site evaluations under the rules for on-site sewage facilities. The minimum lot size is one and one-half (1 1/2) acres per lot pursuant to the Hunt County On-Site Sewage Facility Regulations.

19) For subdivisions proposing individual water wells for water service, an engineer’s report shall be required to certify that an adequate supply of groundwater exists to serve the proposed subdivision. The report shall also clearly illustrate any existing septic systems within 200’ of the proposed subdivision.

20) If the proposed subdivision is a portion of a larger tract, which will be subdivided later, a master plan of the subdivision in its entirety shall be submitted with the Preliminary Plat of the first proposed subdivision.

21) Hunt County reserves the right to use and require submittal of additional forms, contracts, plans, certifications, and any other supplementary documents deemed necessary for the enforcement of these Regulations.

7. Final Plat Procedure and Submission – the Final Plat procedure will be the same as that for the Preliminary Plat except as noted in this Section. Approval of the Preliminary Plat is required prior to submitting a Final Plat. The Commissioners Court must approve the Final Plat and the plat must be recorded before the lots are sold. The Commissioner with precinct jurisdiction will provide written notification of the Commissioners Court action to the owner/agent. The Final Plat shall be recorded with the County Clerk within ninety (90) days of Commissioners Court approval. A single ninety (90) extension may be granted by the Court. Final Plat approval does not include acceptance of streets/roads by the County for maintenance purposes. Street/road acceptance is by separate action of the Court.

A. Final Plats shall contain and be accompanied by the following information:

1) Final Plats will be drawn on 18” X 24” sheets at a scale not to exceed 1” = 200’. Twelve (12) blue line copies of the Final Plat together with two (2) mylar sheet copies are required.

2) Final Plats will show the information required by this section, and as approved the Commissioners Court for the Preliminary Plat, except Section IV, Subsection J(11).
3) A completed application form, and the appropriate plat review fees.

4) Two (2) sets of construction plans sealed by a licensed engineer.

5) Cost documents prepared by the owner’s engineer or contractor for the construction of streets, drainage structures, utilities, and all other improvements.

6) Construction bonds for street and drainage improvements.

7) An original tax certificate from the Tax Collector of each political subdivision in which the property is located to certify that no delinquent taxes are due on the proposed subdivision.

8) A space for approval of the Commissioners Court, the County Clerk to file the plat for record, as well as authority for onsite sewer facilities. See Appendix B.

9) A dedication, by the owner, of all streets, roadways, alleys, utility easements, and other land intended for public use, and the owners’ certification that all parties with any interest in the title to the subject property have joined in such dedication, duly executed, acknowledged, and sworn to by said owner before a notary public.

10) The following statement shall appear on any plat containing private streets, drives, emergency access easements, recreation areas, and open spaces:

   NOTE: All private roads (drives and streets) will be signed in a manner that indicates its’ private status.

   HUNT COUNTY SHALL NOT BE RESPONSIBLE FOR MAINTENANCE OF PRIVATE STREETS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS, AND OPEN SPACES; AND, THE OWNERS SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF PRIVATE STREETS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS, AND OPEN SPACES; AND SAID OWNERS AGREE TO INDEMNIFY AND SAVE HARMLESS HUNT COUNTY FROM ALL CLAIMS, DAMAGES, AND LOSSES ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE OBLIGATIONS OF SAID OWNERS SET FORTH IN THIS PARAGRAPH.
11) A space for approval of a municipality exercising its’ extraterritorial jurisdictional authority.

12) The seal and signature of the surveyor or engineer responsible for preparation of the plat, and the date the plat was prepared.

13) A legal description of the property and location with respect to an original corner of the parent tract. Total acreage shall be noted.

14) The number of all lots and blocks arranged in a systematic order. The names of all streets. The curves on all streets, blocks, lots and easements shall include the radius, length, and central angle of the curve. Lots will show area in acreage or square feet.

15) The accurate location of adjacent subdivision streets, blocks, lots, and easements, or note that the adjacent property is undeveloped.

16) A copy of the subdivision restrictions, if any, shall be properly signed and notarized and filed for record with the County Clerk.

17) The location, size, and description of all permanent monuments and control points.

18) The following statements shall be noted on the Final Plat:

Blocking the flow of water or construction improvements in drainage easements, and filling or obstruction of the floodway is prohibited; and,

The existing creeks or drainage channels traversing along or across the subdivided tracts will remain as open channels, and will be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the creeks or drainage channels; and,

Hunt County will not be responsible for the maintenance and operation of drainage ways for the control of erosion located on private property; and,

Hunt County will not be responsible for any property damage, property loss, personal injury, or loss of life by flooding or flooding conditions.
Construction not completed within two (2) years of the recording date shall be subject to the then current county standards and regulations. The County may require the subdivision to be re-platted.

19) The following statement shall be noted on the Final Plat, if applicable:

I, the undersigned, Chairman of the Lake Area Planning and Zoning Commission of Hunt County, Texas, hereby certify that this subdivision plat conforms to all requirements of the Regulations set forth by the area wherein my approval is required.

Chairman, Planning Commission

20) Developer shall provide the Addressing Coordinator with a paper copy of the Final Plat, and a geo-referenced Computer Aided Drafting (CAD) file or ESRI shape files. If changes are made to the as-built plat, they shall be communicated to the Addressing Coordinator so that the map may be accurately revised. (Revised April 13, 2009, by the Hunt County Commissioners Court Order #13,110)

NOTE: The North Central Texas Council of Governments (NCTCOG) encourages the County to maintain a list of contacts of all local addressing authorities within the County. NCTCOG's 9-1-1 Program or the County will host meetings at the County to discuss issues affecting GIS and 9-1-1 addressing, such as recent or future growth, boundary disputes, addressing practices, or aerial imagery acquisition. Meeting will be held annually at a minimum, and the County Addressing Coordinator or NCTCOG 9-1-1 Program will be responsible for sending invitations.

STANDARD PLATTING PROCEDURE FLOW CHART

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Chairman, Planning Commission

20) Developer shall provide the Addressing Coordinator with a paper copy of the Final Plat, and a geo-referenced Computer Aided Drafting (CAD) file or ESRI shape files. If changes are made to the as-built plat, they shall be communicated to the Addressing Coordinator so that the map may be accurately revised. (Revised April 13, 2009, by the Hunt County Commissioners Court Order #13,110)

NOTE: The North Central Texas Council of Governments (NCTCOG) encourages the County to maintain a list of contacts of all local addressing authorities within the County. NCTCOG's 9-1-1 Program or the County will host meetings at the County to discuss issues affecting GIS and 9-1-1 addressing, such as recent or future growth, boundary disputes, addressing practices, or aerial imagery acquisition. Meeting will be held annually at a minimum, and the County Addressing Coordinator or NCTCOG 9-1-1 Program will be responsible for sending invitations.

STANDARD PLATTING PROCEDURE FLOW CHART
B. Short Plat Procedure

Ensure Preliminary Plat adheres to requirements outlined in Section IV.6.J

NO LATER THAN TEN (10) DAYS PRIOR TO THE REQUESTED COURT APPROVAL DATE submit twelve (12) copies of the Preliminary Plat to the Commissioner with Precinct Jurisdiction, one (1) copy to the County Sanitarian, and one (1) copy to the 911 Coordinator’s Office for review with all applicable fees.

Any questions, or requests for alterations will be received in writing within (5) business days of the receipt of the Plat for review. Should the Plat be approved by the Court, written notification will be sent within five (5) business of the date of Court Approval.

Ensure Final Plat adheres to requirements outlined in Section IV.7.A

NO LATER THAN TWELVE (12) MONTHS FOLLOWING THE APPROVAL OF THE PRELIMINARY PLAT, AND NO LATER THAN TEN (10) DAYS PRIOR TO THE REQUESTED COURT APPROVAL DATE submit twelve (12) copies of the Final Plat to the Commissioner with Precinct Jurisdiction, one (1) copy to the County Sanitarian, and one (1) copy to the 911 Coordinator’s Office for review with all applicable fees.

Any questions, or requests for alterations will be received in writing within (5) business days of the receipt of the Plat for review. Should the Plat be approved by the Court, written notification will be sent within five (5) business of the date of Court Approval.

Upon approval of the Final Plat, the plat must be filed with the County Clerk’s Office within ninety (90) days. Once filed, the selling of lots may commence. All construction not completed within two (2) years of the filing date may be subject to re-platting under the then current regulations.
1) **A Short Plat procedure may be followed for the approval of a subdivision Final Plat when the land proposed for subdivision meets the following conditions:**

A. Such land abuts an existing County Road or Street of required right of way width, or abuts an existing County Road or Street along which adequate right of way shall be dedicated based on the street classification and such land is so located that no additional streets, roads, or other public easements are required to comply with these Regulations; and,

B. The perimeter of the tract being subdivided has been surveyed and marked on the ground by a registered professional land surveyor licensed in the State of Texas, and plat thereof prepared and filed with the Commissioner having precinct jurisdiction.

2) The Short Plat submittal process will be the same as that for a Final Plat except for those items in Section IV, 6, (11), and Section IV, 7, A(4), (5), and (6), and as noted in this Section. The Commissioner with precinct jurisdiction will notify the owner in writing of the Commissioners Court action. Short Plat submittals shall include the following:

A. A completed plat application form, and plat review fees.

B. Twelve (12) copies of the Final Plat together with two (2) mylar sheets are required.

C. Final Plats will be drawn on 18” X 24” sheets at a scale not to exceed 1” = 200’.

D. Supporting documentation with the Short Plat submittal shall include letters from the water, sewer, and electric utility companies certifying that they will provide service to the proposed subdivision.

E. If on-site sewage facilities will be used, a suitability study is required to verify that all of the proposed lots in the subdivision will comply with the County regulations for on-site sewage facilities.
8. **Construction Plans:**

   **A.** All construction plans, drawings, and calculation shall be sealed by a Registered Professional Engineer licensed to practice in the State of Texas.

   **B.** Construction Plans shall consist of:
   
   1) Street plans;
   2) Drainage plans;
   3) Water, electric, and sewer system, if any; and,
   4) Location and description of all easements.

   **C.** Two (2) sets of all construction plans (18” X 24” sheets) must be submitted to and approved by the Hunt County Commissioners Court, unless a variance is granted, prior to the start of any construction.

   **D.** Street construction plans shall include the following:
   
   1) Title sheet showing names of subdivision, developer, engineer, date and location map. Include a space for approval by the Commissioners Court.
   2) The plan of the street at a scale no larger than 1” = 50’, showing the location of the proposed pavement, ditches, and structures within the street right of way.
   3) The profile of the street at no larger than 1” = 50’ horizontal, and 1” = 5’ vertical.
   4) Both the street grade and elevation.
   5) Both the ditch grade and sections.
   6) Typical street sections.
   7) The seal and signature of the engineer responsible for the design on all sheets.

   **E.** Drainage constructions plans shall include the following:

   1) Title sheet showing names of subdivision, developer, engineer, date and location map. Include a space for approval by the Commissioners Court.
   2) The plan of the street at a scale no larger than 1” = 50’, showing the location of the proposed pavement, ditches, and structures within the street right of way.
   3) The profile of the street at no larger than 1” = 50’ horizontal, and 1” = 5’ vertical.
   4) Both the street grade and elevation.
   5) Both the ditch grade and sections.
   6) Typical street sections.
   7) The seal and signature of the engineer responsible for the design on all sheets.
Hunt County Subdivision Regulations

1) The plan of the drainage ditches or structures including a ditch profile and typical section view in no larger than a 1” = 50’.

2) The ditch grades, design flow of water, design depth of water, design velocity of water, and the direction of flow within street and drainage channels shall be clearly noted. The use of existing channels is encouraged.

3) A plan and profile of all culverts under any street with the design flow of water.

4) The size of all driveway culverts to carry the design flow of water to each lot in the subdivision when the culvert is installed at the designed ditch grade.

5) A map containing the size of each pipe shall be attached to the plat. The developer is responsible for notifying builders and lot owners of the required culvert size.

6) The plans shall include a hydraulic summary table, identify the boundary of the drainage area contributing runoff into the drainage system, and be based on a 25-year storm frequency.

7) The plans shall contain the following statement executed by the engineer responsible for the design:

I, ____________________, a Texas Licensed Engineer, do hereby affirm that to the best of my knowledge, information, and belief, and based upon the information provided, the drainage improvements shown on these plans will have no adverse effect on any property adjacent to the property shown.

F. Water construction plans shall show:

1) The location and size of all proposed water lines in relation to the right of way, and/or easements in which the lines are to be located.

2) The location of all appurtenances proposed to be installed.

3) The minimum cover depth to which the water lines are to be installed shall be no less than 30” (inches).

Hunt County Subdivision Regulations

1) The plan of the drainage ditches or structures including a ditch profile and typical section view in no larger than a 1” = 50’.

2) The ditch grades, design flow of water, design depth of water, design velocity of water, and the direction of flow within street and drainage channels shall be clearly noted. The use of existing channels is encouraged.

3) A plan and profile of all culverts under any street with the design flow of water.

4) The size of all driveway culverts to carry the design flow of water to each lot in the subdivision when the culvert is installed at the designed ditch grade.

5) A map containing the size of each pipe shall be attached to the plat. The developer is responsible for notifying builders and lot owners of the required culvert size.

6) The plans shall include a hydraulic summary table, identify the boundary of the drainage area contributing runoff into the drainage system, and be based on a 25-year storm frequency.

7) The plans shall contain the following statement executed by the engineer responsible for the design:

I, ____________________, a Texas Licensed Engineer, do hereby affirm that to the best of my knowledge, information, and belief, and based upon the information provided, the drainage improvements shown on these plans will have no adverse effect on any property adjacent to the property shown.

F. Water construction plans shall show:

1) The location and size of all proposed water lines in relation to the right of way, and/or easements in which the lines are to be located.

2) The location of all appurtenances proposed to be installed.

3) The minimum cover depth to which the water lines are to be installed shall be no less than 30” (inches).
Hunt County Subdivision Regulations

H. Fire Suppression System. Pursuant to Section 232.109 of the Texas Local Government Code, any subdivision that is not served by fire hydrants as part of a centralized water system certified by the Texas Commission on Environmental Quality may be required to provide construction plans showing:

1) for a subdivision of fewer than 50 houses, 2,500 gallons of water storage; or
2) for a subdivision of 50 or more houses, 2,500 gallons of water storage with a centralized water system or 5,000 gallons of water storage.

I. All Construction Plans shall be submitted with the Final Plat.

J. Construction Plans shall be reviewed by the Commissioner with jurisdiction over the precinct in which the subdivision is located, and one set of approved plans will be returned to the developer. Should any corrections or additions be required for approval, the Commissioner with precinct jurisdiction shall notify the developer.

K. Construction Plan must be approved prior to the approval of the Final Plat by Commissioners Court.

Hunt County Subdivision Regulations

G. Sewage construction plans shall show:

1) The plan of the sewer line in no larger than 1" = 50' scale, showing the location and size of all proposed sewer lines in relation to the right of way or easements in which the lines are to be located.
2) The location of all appurtenances proposed to be installed.
3) The sewer line grades and elevations at all junction points.
4) The seal and signature of the engineer responsible for the design on all sheets.

H. Fire Suppression System. Pursuant to Section 232.109 of the Texas Local Government Code, any subdivision that is not served by fire hydrants as part of a centralized water system certified by the Texas Commission on Environmental Quality may be required to provide construction plans showing:

1) for a subdivision of fewer than 50 houses, 2,500 gallons of water storage; or
2) for a subdivision of 50 or more houses, 2,500 gallons of water storage with a centralized water system or 5,000 gallons of water storage.

I. All Construction Plans shall be submitted with the Final Plat.

J. Construction Plans shall be reviewed by the Commissioner with jurisdiction over the precinct in which the subdivision is located, and one set of approved plans will be returned to the developer. Should any corrections or additions be required for approval, the Commissioner with precinct jurisdiction shall notify the developer.

K. Construction Plan must be approved prior to the approval of the Final Plat by Commissioners Court.
9. Construction and Maintenance Bonds:

A. Prior to recording a Final Plat, the following financial securities are required:

1) Construction Bond – The developer shall complete all construction of improvements within two (2) years after approval of Final Plat. The developer shall file a Construction Bond, executed by a Surety Company authorized to do business in the State of Texas, and made payable to the County Judge of Hunt County, Texas or his successors in office.

The bond amount shall be equal to one hundred twenty five (125%) of the estimated cost of construction of roads, streets, street signs, underground utilities, required drainage structures, and all other associated construction improvements based on certified developers/engineers estimated cost.

The developer shall submit the construction bond with the Final Plat prior to Commissioners Court approval of the Final Plat.

The construction bond shall remain in full force, and in effect, until all roads, streets, street signs, underground utilities, required drainage structures, and all other associated construction improvements in the subdivision have been completed to the satisfaction of the Hunt County Commissioners Court, and the construction has been released by the County Judge on the recommendation of Commissioners Court.

If any or all of the streets, roads, drainage and drainage structures, as constructed by owner, fail to meet the requirements of these Regulations and the developer fails or refuses to correct the defect within sixty (60) days, from the date the Commissioner with precinct jurisdiction issues notice, in writing, the unfinished improvements shall be completed at the cost and expense of the obligee or surety/financial securities as provided.

2) Maintenance Bond – To insure roads, streets, street signs, underground utilities, required drainage structures, and all other construction is maintained to the satisfaction of Hunt County, a maintenance bond executed by a surety company

Hunt County Subdivision Regulations

9. Construction and Maintenance Bonds:

A. Prior to recording a Final Plat, the following financial securities are required:

1) Construction Bond – The developer shall complete all construction of improvements within two (2) years after approval of Final Plat. The developer shall file a Construction Bond, executed by a Surety Company authorized to do business in the State of Texas, and made payable to the County Judge of Hunt County, Texas or his successors in office.

The bond amount shall be equal to one hundred twenty five (125%) of the estimated cost of construction of roads, streets, street signs, underground utilities, required drainage structures, and all other associated construction improvements based on certified developers/engineers estimated cost.

The developer shall submit the construction bond with the Final Plat prior to Commissioners Court approval of the Final Plat.

The construction bond shall remain in full force, and in effect, until all roads, streets, street signs, underground utilities, required drainage structures, and all other associated construction improvements in the subdivision have been completed to the satisfaction of the Hunt County Commissioners Court, and the construction has been released by the County Judge on the recommendation of Commissioners Court.

If any or all of the streets, roads, drainage and drainage structures, as constructed by owner, fail to meet the requirements of these Regulations and the developer fails or refuses to correct the defect within sixty (60) days, from the date the Commissioner with precinct jurisdiction issues notice, in writing, the unfinished improvements shall be completed at the cost and expense of the obligee or surety/financial securities as provided.

2) Maintenance Bond – To insure roads, streets, street signs, underground utilities, required drainage structures, and all other construction is maintained to the satisfaction of Hunt County, a maintenance bond executed by a surety company
authorized to do business in the State of Texas, and made payable to the County Judge of Hunt County, Texas or his successors in office, shall be substituted for the construction bond at the time of release of said construction bond.

The maintenance bond amount shall be equal to actual cost, or 10% of the estimated cost as defined by Section 9 (1) paragraph 2, of the roads, streets, street signs, required drainage structures, and all other construction.

The conditions of the maintenance bond shall stipulate that the developer shall guarantee to maintain, to the satisfaction of Hunt County, all of the streets, roads, drainage structures, and drainage ditches and channels which have been constructed to specifications with construction in a good state of repair for a period of one (1) year from the date of official release of the construction security. Construction security will be released by the County Judge on recommendation of the Commissioners Court.

The developer shall retain an engineer of the county’s choosing, licensed by the State of Texas, to perform annual inspections of roads, streets, street signs, underground utilities, drainage structures, and all other construction for which maintenance security is held. These inspection shall contain the seal and signature of the engineer responsible for the inspection, and be filed with the County Clerk of Hunt County, Texas.

In the event any or all of the roads, streets, street signs, underground utilities, drainage structures, and all other construction improvements are not being maintained in a good state of repair, the engineer performing the inspection shall advise both the developer and the Hunt County Judge in writing and, if, after ninety (90) days, the developer fails or refuses to repair said items, the deficiencies shall be corrected at the cost and expense of the obligee or financial security.

3) Release of bond – The release of any bond shall be by order of Commissioners Court. To request a release, the developer shall present a written request to release said bond. This request shall contain a statement made by the engineer responsible for the design of improvements stating that he has made an inspection of such improvements and recommends their acceptance by

authorized to do business in the State of Texas, and made payable to the County Judge of Hunt County, Texas or his successors in office, shall be substituted for the construction bond at the time of release of said construction bond.

The maintenance bond amount shall be equal to actual cost, or 10% of the estimated cost as defined by Section 9 (1) paragraph 2, of the roads, streets, street signs, required drainage structures, and all other construction.

The conditions of the maintenance bond shall stipulate that the developer shall guarantee to maintain, to the satisfaction of Hunt County, all of the streets, roads, drainage structures, and drainage ditches and channels which have been constructed to specifications with construction in a good state of repair for a period of one (1) year from the date of official release of the construction security. Construction security will be released by the County Judge on recommendation of the Commissioners Court.

The developer shall retain an engineer of the county’s choosing, licensed by the State of Texas, to perform annual inspections of roads, streets, street signs, underground utilities, drainage structures, and all other construction for which maintenance security is held. These inspection shall contain the seal and signature of the engineer responsible for the inspection, and be filed with the County Clerk of Hunt County, Texas.

In the event any or all of the roads, streets, street signs, underground utilities, drainage structures, and all other construction improvements are not being maintained in a good state of repair, the engineer performing the inspection shall advise both the developer and the Hunt County Judge in writing and, if, after ninety (90) days, the developer fails or refuses to repair said items, the deficiencies shall be corrected at the cost and expense of the obligee or financial security.

3) Release of bond – The release of any bond shall be by order of Commissioners Court. To request a release, the developer shall present a written request to release said bond. This request shall contain a statement made by the engineer responsible for the design of improvements stating that he has made an inspection of such improvements and recommends their acceptance by
Hunt County. Attached to his letter shall be one set of “as built” drawings showing the work to be accepted for use by the County. The written request of bond release shall be received by Hunt County at least twenty-one (21) days prior to the next regularly scheduled meeting of Commissioners Court.
SECTION VI
Subdivision Standards/Specifications

1. General Requirements:

A. Except as provided in Section VI herein, no Plat or improvements thereon shall be approved or accepted by the Commissioners Court unless it conforms to the minimum standards and specifications contained herein.

B. If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow the opening of future streets.

C. There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

2. Streets or Roads:

A. All streets/roads within a subdivision submitted for final plat approval shall be constructed to meet the standards and specifications for roads as approved by the Hunt County Commissioners Court in this Section. The owner/developer of a subdivision is responsible for the cost of construction for all street/roads, drainage, and other improvements within the subdivision.

B. Testing shall be performed by a qualified engineering laboratory, and the cost of all testing shall be the responsibility of the owner/developer.

C. The Commissioners Court may require additional entrances to a subdivision from a County Road for emergency vehicle access, and to provide for increased traffic and public safety.

D. Street or roads shall be classified, based upon the definitions in Section III of these Regulations, during the Preliminary Plat review. The Commissioners Court shall be the final authority for interpretations of road classifications.

E. Residential streets or roads shall have:

   1) a minimum right of way of sixty (60) feet;
   2) a minimum paved road surface of twenty-four (24) feet; and,
   3) a base course of not less than twenty-eight (28) feet.
Hunt County Subdivision Regulations

F. Collector streets or roads shall have:
   
   1) a minimum right of way of sixty (60) feet;
   
   2) a minimum paved road surface of road surface of twenty-six (26) feet; and,
   
   3) a base course of not less than thirty (30) feet.

G. Main artery streets or roads shall meet the minimum requirements set forth by the Texas Department of Transportation for the level of traffic anticipated by the developer for the proposed area.

H. Cul-de-sacs shall have:
   
   1) a minimum right of way radius of sixty (60) feet:
   
   2) a minimum paved roadway surface radius of forty-five (45) feet; and,
   
   3) a minimum base course of not less than a forty-seven (47) foot radius.

I. A cul de sac that exceeds two thousand five hundred (2,500) feet in length between the center of the turnaround and the intersection of the cul de sac with another street or road may require additional turn around space for emergency personnel as required by Commissioners Court.

J. Alleys shall have a right of way width of not less than twelve (12) feet.

K. A proposed subdivision that adjoins or encompasses an existing public street, that does not comply with the minimum right of way requirements of these Regulations, shall provide the dedication of additional right of way along either or both sides of said street so that the minimum right of way required by these Regulations can be established. If the proposed subdivision abuts only one side of said street, then a minimum of one-half of the required right of way shall be dedicated by such subdivision.

L. All streets or roads shall either be connected at both ends to a dedicated street, or be provided with a turnaround having a minimum paved radius of thirty-three (45) feet, and a minimum right of way radius of sixty (60) feet as provided in Section V, 2, H of these Regulations.
Hunt County Subdivision Regulations

M. Streets/roads shall be designed using generally accepted engineering standards to handle a twenty-five (25) year flood within the right of way. All excess water shall be carried off by the use of adequate storm drainage structures or ditches.

N. Streets/roads, where practical, shall intersect at a ninety (90) degree angle. Where this is not practical, the intersection, on the side of the acute angle, shall be rounded with a curve or a cut-back, but in no case shall the curve have less than a twenty-five (25) foot radius.

O. New streets or roads which are a continuation of an existing street or road shall be a continuation, without offset, of the existing road.

P. Where streets or roads in an adjoining subdivision end at the property line of the new subdivision, the streets or roads of the adjoining subdivision shall be continued throughout the new subdivision. Where no adjacent connections are platted, the roads in the new subdivision shall be a reasonable projection of the streets or roads in the nearest subdivision.

Q. Names of new streets or roads shall be reviewed for use by the Hunt County 911 Coordinator prior to the submission of the Final Plat. New streets or roads will be named to provide continuity with existing streets or roads in adjacent subdivisions that may be expected to extend to the proposed subdivision.

R. No landscaped "islands", ornamental entrances, trees, decorative squares, or any other obstruction to traffic shall be constructed or preserved within the right of way of a street or road dedicated to the public without authorization from the Commissioners Court. If landscaping and/or irrigation is proposed within the right of way, the owner shall create an organization (homeowners association or neighborhood association) that will be responsible for the maintenance and liability of the landscaping and/or irrigation system. The organization shall have assessment authority to insure adequate funding for maintenance.

S. For developments with a density of no more than two (2) residential units per acre, roads shall be accepted by the Hunt County Commissioners Court so long as the specifications listed below are strictly followed in the construction of any such streets within or abutting the subdivision. All streets or roads shown on the plat shall be paved at the property line, and must meet the followings specifications:

M. Streets/roads shall be designed using generally accepted engineering standards to handle a twenty-five (25) year flood within the right of way. All excess water shall be carried off by the use of adequate storm drainage structures or ditches.

N. Streets/roads, where practical, shall intersect at a ninety (90) degree angle. Where this is not practical, the intersection, on the side of the acute angle, shall be rounded with a curve or a cut-back, but in no case shall the curve have less than a twenty-five (25) foot radius.

O. New streets or roads which are a continuation of an existing street or road shall be a continuation, without offset, of the existing road.

P. Where streets or roads in an adjoining subdivision end at the property line of the new subdivision, the streets or roads of the adjoining subdivision shall be continued throughout the new subdivision. Where no adjacent connections are platted, the roads in the new subdivision shall be a reasonable projection of the streets or roads in the nearest subdivision.

Q. Names of new streets or roads shall be reviewed for use by the Hunt County 911 Coordinator prior to the submission of the Final Plat. New streets or roads will be named to provide continuity with existing streets or roads in adjacent subdivisions that may be expected to extend to the proposed subdivision.

R. No landscaped "islands", ornamental entrances, trees, decorative squares, or any other obstruction to traffic shall be constructed or preserved within the right of way of a street or road dedicated to the public without authorization from the Commissioners Court. If landscaping and/or irrigation is proposed within the right of way, the owner shall create an organization (homeowners association or neighborhood association) that will be responsible for the maintenance and liability of the landscaping and/or irrigation system. The organization shall have assessment authority to insure adequate funding for maintenance.

S. For developments with a density of no more than two (2) residential units per acre, roads shall be accepted by the Hunt County Commissioners Court so long as the specifications listed below are strictly followed in the construction of any such streets within or abutting the subdivision. All streets or roads shown on the plat shall be paved at the property line, and must meet the followings specifications:
1) Asphalt streets/roads or Oil Sand Mix with subgrade and base:

A. The area on which the street/road is to be constructed shall be cleared and grubbed free of visible organic matter such as roots, stumps, and grass.

B. The road bed is to be graded to, and compacted to, an approved level with V-type bar ditches sufficient to insure proper drainage.

C. Subgrade levels requiring more than 8 inches of fill shall be rolled with a sheep foot roller before making the fill. The rolling shall be done on soil having optimum moisture content, and shall be rolled until the soil is compacted to ninety-five (95%) percent proctor density to a thickness of six (6) inches within 2% to 4% optimum moisture content, but not less than 2%.

D. Layers of twelve inch (12") thickness of loose earth material free of visible organic matter are to be placed and compacted as described hereinabove by use of a sheep foot roller until the required cross-section is obtained.

E. The sub-base shall be crowned to a width of twenty-six (26') feet, and shall be compacted and shaped to provide a hard subgrade over the entire twenty-six (26') foot width. The seep areas shall:

1) Be marked by visual inspection by the contractor and signed for by a licensed engineer;

2) Be drained to a depth of at least two (2') feet below subgrade elevation by use of subsurface drainage.

After the seep areas are drained, the subgrade is to be compacted as described hereinabove.

F. The base shall be of good quality crushed rock or road gravel, and be compacted to a depth of eight (8") inches in thickness and twenty-four (24') feet in width with ninety (90%) percent proctor density. The base shall be shaped to provide a twenty (20') foot wide pavement, and shall slope...
Hunt County Subdivision Regulations

gradually on each side beyond the twenty (20’) foot width to support fully the entire width of the pavement base.

G. A core test of the compacted base shall be done by the contractor at his expense. The test shall be presented to the Commissioner with precinct jurisdiction before any asphalt is applied.

H. The wearing surface shall be hot mix or oils/sand mix.

2) Hot Mix Asphalt or Oil/Sand Mix:

A. The prime coat or rack coat shall be placed during proper weather conditions and shall be allowed to properly cure (one day).

B. Hot mix asphalt or oil/sand mix shall then be applied during proper weather conditions to a compacted depth of two inches. The asphalt or oil/sand mix shall be rolled to a proper density. The asphalt or oil/sand mix wearing surface shall be twenty (20’) feet wide, and constructed of a quality approved by the Hunt County Commissioners Court.

3) A developer may apply for an exception to the paving of local streets or roads, and the Hunt County Commissioners Court may grant an exception when the smallest lot in the subdivision is ten (10) acres or more in area, the roadway is owned by a homeowners association, and it is privately maintained.

A. Private Roads: Private Roads cannot be included in a Subdivision without prior approval of the Commissioners Court. When a request for a Private Road is received by the Commissioner with precinct jurisdiction, it will be presented to the Commissioners Court for their approval or disapproval.

1) Private roads, streets, etc. shall conform the Hunt County Subdivision Regulations; and,

2) Private streets, roads, and emergency access easements shall be termed as a vehicular access

Hunt County Subdivision Regulations

gradually on each side beyond the twenty (20’) foot width to support fully the entire width of the pavement base.

G. A core test of the compacted base shall be done by the contractor at his expense. The test shall be presented to the Commissioner with precinct jurisdiction before any asphalt is applied.

H. The wearing surface shall be hot mix or oils/sand mix.

2) Hot Mix Asphalt or Oil/Sand Mix:

A. The prime coat or rack coat shall be placed during proper weather conditions and shall be allowed to properly cure (one day).

B. Hot mix asphalt or oil/sand mix shall then be applied during proper weather conditions to a compacted depth of two inches. The asphalt or oil/sand mix shall be rolled to a proper density. The asphalt or oil/sand mix wearing surface shall be twenty (20’) feet wide, and constructed of a quality approved by the Hunt County Commissioners Court.

3) A developer may apply for an exception to the paving of local streets or roads, and the Hunt County Commissioners Court may grant an exception when the smallest lot in the subdivision is ten (10) acres or more in area, the roadway is owned by a homeowners association, and it is privately maintained.

A. Private Roads: Private Roads cannot be included in a Subdivision without prior approval of the Commissioners Court. When a request for a Private Road is received by the Commissioner with precinct jurisdiction, it will be presented to the Commissioners Court for their approval or disapproval.

1) Private roads, streets, etc. shall conform the Hunt County Subdivision Regulations; and,

2) Private streets, roads, and emergency access easements shall be termed as a vehicular access
way under private ownership and maintenance; and,

3) Gated subdivisions (having security gates or guard stations) are considered privately owned and will be maintained without any County contribution.

B. The developer shall state, on the Final Plat, as to each existing or proposed street or road the type of material used or to be used in the construction of said streets or roads.

T. For developments with a density of more than two (2) residential units per acre, roads shall be accepted by the Hunt County Commissioners Court so long as the specifications listed below, as set forth by the Texas Department of Transportation, are strictly followed in the construction of any such streets within or abutting the subdivision. All applicable geotechnical reports and engineering approvals shall be submitted with the Preliminary Plat. All streets or roads shown on the plat shall be paved at the property line, and must meet the followings specifications:

1) **Subgrade** – the subgrade shall be lime stabilized with hydrated lime in the amount of 7% by weight of the subgrade to a depth of six (6) inches for the stipulated width, plus one foot behind the curbs. The Commissioner with precinct jurisdiction shall consider other types, and percentages, of lime based on the geotechnical laboratory tests, evaluations, and recommendations described in the engineering reports provided and paid for by the developer.

2) **Surface** – the surface course shall be six (6) inches in thickness of 3,600 psi or greater of Portland Cement concrete or an approved equivalent thickness of hot mix asphaltic concrete.

*Please refer to Appendix C.

U. The land owner or developer shall be required to install culverts under streets at all entrances and at drainage courses as specified by the Hunt County Commissioners Court or applicable engineering specifications. All culverts shall be made of metal with a minimum of thirty (30) feet in length at all entrances.
Hunt County Subdivision Regulations

V. All utilities shall be placed and stubbed out from under the street paving to the street right of way line so as not to disturb the road surface in the process of extending and connecting services to each property.

W. The land owner or developer shall be required to contact the Commissioner with precinct jurisdiction prior to the commencement of any work in the development or addition, in order that the Hunt County Commissioners Court may approve the same or make specific recommendations as to any required alterations to the addition.

X. Any exceptions to these Regulations require approval from the Hunt County Commissioners Court, at its’ discretion, finding good cause for such exceptions.

3. Easements:

A. Utility Easements shall:

1) Be a minimum of fifteen (15) feet in width along the front and rear property line, and a minimum of ten (10) feet in width along the side property line. It shall be the responsibility of the owner to insure that all utility easements are of the proper width and location to serve the utility companies.

2) When crossing a street or road, be buried a minimum of twenty-four (24) inches below the ditch line, or a minimum of thirty-six (36) inches below the crown of the street or road, whichever is greater.

3) If new streets or roads are constructed over existing petroleum pipeline crossings, the pipe shall be protected as follows:

   A. Encased pipe shall be a minimum of three (3) feet below the deepest proposed ditch line.

   B. Non-cased pipe (of extra wall thickness meeting federal regulations) shall be a minimum of four (4) feet below the deepest proposed ditch line.

   NOTE: Hunt County will not accept roads for maintenance which contain a petroleum pipeline within the right of way, other than a crossing pipeline. Approval from the pipeline company is required for new streets/roads crossing easements.

Hunt County Subdivision Regulations

V. All utilities shall be placed and stubbed out from under the street paving to the street right of way line so as not to disturb the road surface in the process of extending and connecting services to each property.

W. The land owner or developer shall be required to contact the Commissioner with precinct jurisdiction prior to the commencement of any work in the development or addition, in order that the Hunt County Commissioners Court may approve the same or make specific recommendations as to any required alterations to the addition.

X. Any exceptions to these Regulations require approval from the Hunt County Commissioners Court, at its’ discretion, finding good cause for such exceptions.

3. Easements:

A. Utility Easements shall:

1) Be a minimum of fifteen (15) feet in width along the front and rear property line, and a minimum of ten (10) feet in width along the side property line. It shall be the responsibility of the owner to insure that all utility easements are of the proper width and location to serve the utility companies.

2) When crossing a street or road, be buried a minimum of twenty-four (24) inches below the ditch line, or a minimum of thirty-six (36) inches below the crown of the street or road, whichever is greater.

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   NOTE: Hunt County will not accept roads for maintenance which contain a petroleum pipeline within the right of way, other than a crossing pipeline. Approval from the pipeline company is required for new streets/roads crossing easements.
B. Drainage Easements shall:

1) Be dedicated by the owner of sufficient width and location in order to maintain and construct the storm water drainage system based on the plans prepared by a registered professional engineer.

2) Generally be located along existing drainage channels, and equal the top width of the channel plus ten (10) feet on each side.

3) Where drainage crosses a street or road, the storm drainage shall be carried in pipe(s) or through bridges or culverts sized by a registered professional engineer at the developer’s expense. Additional drainage easements, outside of the right of way and at culvert crossings, may be required by the Hunt County Commissioners Court for maintenance and/or protection of the County Street/Road System.

NOTE: Hunt County will not provide maintenance for drainage other than for drainage necessary for the protection of the street or road system.

4. Water Utilities:

A. In any area of the County that potable water is supplied or eligible to be supplied by a Potable Water Supplier, each subdivision shall contain and each developer shall provide, construct and install all water lines, to insure access to water for each lot unless a variance is obtained by the Hunt County Commissioners Court that the Potable Water Supplier has agreed to supply, and has the ability to supply, potable water to all lots located within the subdivision.

B. Developers shall comply with Chapter 341 of the Texas Health Code.

C. Where drinking water is to be supplied to a subdivision from a central system, the water quality and system design, construction, and operation shall meet the minimum criteria set forth in 25 TAC Section 337.201-337.212, and 25 TAC 337.1-337.18.

D. Developers who proposed to supply drinking water by connecting to an existing central system must provide a written agreement with the public

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D. Developers who proposed to supply drinking water by connecting to an existing central system must provide a written agreement with the public
water supplier. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed subdivision.

E. Transportation or conveyance of potable water by transport truck or other mobile device to supply domestic needs of the subdivision is not acceptable except on in the case of emergency.

NOTE: Absence of a water system meeting the standards of these Regulations due to the negligence of the developer does not constitute an emergency.

F. Where water supplies are to be provided by an existing political subdivision of the state, including a city, municipal utility district, water control and improvement district, nonprofit water supply corporation, special utility district, or an existing investor-owned water supply corporation, the developer shall furnish a certificate of convenience and necessity.

G. Before final approval, plans and specifications for the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed project.

H. If well water is proposed to be the source of water supply for the subdivision, the final engineering report shall include a well water availability study which shall include comments regarding the long term (30 years) quantity and quality of the available well water supplies relative to the ultimate needs of the subdivision.

I. In any area not controlled by an approved rural water supplier, developer shall provide written approval from the Texas Commission on Environmental Quality (TCEQ) for the quantity and quality of water to be provided to the proposed subdivision prior to submittal of the preliminary plat.

5. Sewer Utilities:

A. Organized Collection and Treatment Systems:

1) Developers who propose to dispose of wastewater by connecting to an existing permitted facility shall accommodate the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty

Hunt County Subdivision Regulations

water supplier. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed subdivision.

E. Transportation or conveyance of potable water by transport truck or other mobile device to supply domestic needs of the subdivision is not acceptable except on in the case of emergency.

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1) Developers who propose to dispose of wastewater by connecting to an existing permitted facility shall accommodate the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty
(30) years. Engineering plans for the proposed wastewater collection lines shall be approved by the TCEQ prior to construction.

2) Where wastewater treatment capacity is to be provided by a political subdivision of the State, including a city, municipal utility district, water control and improvement district, nonprofit water supply corporation, or an existing investor-owned water supply corporation, the developer shall furnish evidence of a contractual agreement between the developer and the governing board of the entity or owner of the utility to the effect that necessary arrangements have been made by the developer and the entity for the provision of sufficient wastewater treatment capacity to serve the ultimate occupancy needs of the subdivision for a term of not less than thirty (30) years. Before Final Plat approval, an appropriate permit shall be obtained from the TCEQ, and plans and specifications for the proposed wastewater collection and treatment facilities shall be approved by all entities having jurisdiction over the proposed subdivision.

3) Where there is no existing entity or owner to construct or maintain the proposed wastewater treatment and collection facilities, the developer shall establish an investor-owned utility by obtaining a Certificate of Convenience and Necessity from the TCEQ. Before Final Plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate occupancy needs of the subdivision shall be obtained from the TCEQ, and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed subdivision.

B. Individual On-site Sewage Facilities:

1) Subdivisions served by on-site sewage facilities shall provide for individual lots have a surface area not less than one and one-half (1.5) acres. The one and one-half acres must be usable land.

2) On-site sewage facilities not required to obtain a wastewater permit through the TCEQ shall apply for permit through the representative designated by Hunt County.
3) On-site sewage plans must be submitted an approved prior to installation of the system.

4) The following items must be addressed and/or performed prior to the approval of the Final Plat:
   a. Site Plan – should state the overall reason for the subdivision. (i.e. being developed for commercial, residential, RV parking, mobile homes, etc.)
   b. Topographic Map.
   c. 100-Year Flood Zone.
   d. Soil Survey.
   e. Location of water wells in the development, or within 150 feet of the development.
   f. Location of all easements.
   g. Comprehensive drainage plan.
   h. Detailed description of all types of sewage facilities suitable for the soil conditions and restrictions of the proposed development as provided by a registered sanitarian or professional engineer.

6. Lots:
   A. The minimum lot size for subdivision of single family dwellings utilizing individual on-site sewage facilities shall be one and one half acre.
   B. Building setback lines be fifty (50) feet from the edge of the right of way along all state or federal roads and highways. The building setback lines from all other streets and roads shall be twenty-five (25) feet. Building setback lines shall be shown on the Preliminary and Final Plats.
   C. Lots shall have minimum road frontage as indicated by the following:

<table>
<thead>
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Hunt County Subdivision Regulations

| Less than one (1) acre or in cul-de-sac | 80 feet |
| Greater than or equal to one (1) acre but less than two (2) acres | 120 feet |
| Greater than or equal to two (2) acres but less than five (5) acres | 200 feet |
| Greater than or equal to five (5) acres | 275 feet |

* Minimum cord length along a curve, and minimum frontage in cul-de-sacs shall be measured at the building line.

D. All lots shall abut and have direct access to a County street or road, or abut and have direct access to a private or public road that has been constructed to the current construction standards of these Regulations, and which has the required dedicated right of way.

7. Floodplains:

A. Subdivisions that are located in a flood zone as shown on the current Flood Insurance Rate Map (FIRM) for Hunt County will comply with this section. Subdivisions containing a floodway may be subject to encroachment review, and required to submit an encroachment certification by a licensed engineer. The developer shall be responsible for the costs of any engineering studies and certifications necessary to determine the impact of improvements on flood flows downstream, and flood heights upstream and adjacent to the subdivision.

B. All subdivision submittals shall comply with the current Floodplain Management Regulations adopted by the Hunt County Commissioners Court.

C. The finished floor elevation for each lot located in the floodplain shall be shown on the plat, and the boundaries of the floodplain shall be delineated.

D. The Preliminary and Final plat shall have a notation stating: “A floodplain construction permit is required from Hunt County prior to any construction in the floodplain”.

E. Permanent type bench marks shall be set in appropriate locations with the description and elevation shown on the plat.

1) In addition, all subdivision located within, or abutting, any area designated as ZONE A on the current Flood Insurance Rate Map

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| Less than one (1) acre or in cul-de-sac | 80 feet |
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| Greater than or equal to two (2) acres but less than five (5) acres | 200 feet |
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B. All subdivision submittals shall comply with the current Floodplain Management Regulations adopted by the Hunt County Commissioners Court.

C. The finished floor elevation for each lot located in the floodplain shall be shown on the plat, and the boundaries of the floodplain shall be delineated.

D. The Preliminary and Final plat shall have a notation stating: “A floodplain construction permit is required from Hunt County prior to any construction in the floodplain”.

E. Permanent type bench marks shall be set in appropriate locations with the description and elevation shown on the plat.

1) In addition, all subdivision located within, or abutting, any area designated as ZONE A on the current Flood Insurance Rate Map
(FIRM) for Hunt County shall provide with the Final Plat a detailed base flood elevation study for the subdivision at the sole cost of the developer.

NOTE: Hunt County is not responsible for the provision and maintenance of drainage to reduce flood damage on individual private lots.
SECTION VII
Variance

1. Variance may be authorized by the Hunt County Commissioners Court when evidence shows that undue hardship will result from requiring strict compliance. In granting variances, the Commissioners Courts shall prescribe only conditions that it deems necessary or desirable for the public interest. In making their findings, the Commissioners Court shall take the following into account:

A. The nature of the proposed use of the land involved;
B. Existing uses of land in the vicinity of the proposed subdivision;
C. The number of persons who will reside or work in the proposed subdivision; and,
D. The probable effect of such variance upon traffic conditions, drainage, public health, and the safety of the existing and future residents.

2. No variance shall be granted unless the Hunt County Commissioners Court determines, from a written request:

A. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of these Regulations would deprive the applicant of the reasonable use of the land; and,
B. That the variance is necessary for the protection and enjoyment of a substantial property right of the applicant; and,
C. That the granting of the variance will not be detrimental to the public health or safety or injurious to other property in the area; and,
D. That the granting of the variance will not have the effect of preventing orderly division of other land in the area in accordance with these Regulations.

3. Such findings of the Hunt County Commissioners Court, together with the special facts upon which the findings are based, shall be incorporated into the official minutes of the meeting at which the variance is granted. Variances may be granted only when in harmony with the general purpose and intent of these Regulations, and when they serve to secure the public health and safety.
NOTE: Financial hardship to a developer, standing alone, shall not constitute undue hardship.
SECTION VIII
Exceptions to Platting

Pursuant to the Texas Local Government Code, the following exceptions to subdivision of land and filing of a plat are effective:

1. Lot Size:

   A. A plat is NOT required if:
      1) all of the daughter tracts are more than ten (10) acres in area; and,
      2) the owner does not lay out on the parent tract any streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

2. Family Grants:

   A. A plat is NOT required if the owner of a tract divides the tract and:
      1) the owner does not lay out a part of the tract for streets, alleys, squares, parks, or other parts intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts; and,
      2) each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity.

   NOTE: If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner of the parent tract within the third degree by consanguinity or affinity, the platting requirements of these Regulations apply. Consanguinity and affinity are determined in accordance with Texas Government Code Chapter 573. In general, the term third degree of consanguinity refers to parents, children, brothers, sisters, grandparents, grandchildren, great-grandparents, great-grandchildren, aunts who are sisters of a parent of the owner, uncles who are brothers to a parent of the owner, nephews or nieces who are children of a brother or sister of a parent of the owner. In general, the third degree of affinity includes the owner’s spouse, any person related to...
3. Phased Subdivisions:

A. A plat is NOT required of an owner who divides a tract into two or more parts if:

1) one daughter tract is to be retained by the owner and the other daughter tract is to be transferred to another person who will further subdivide that tract subject to the plat approval requirements of these Regulations and the Texas Local Government Code; and,

2) the owner does not lay out any streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

4. Agricultural Use:

A. A plat is NOT required of a landowner who divides a tract into two or more parts if:

1) the owner does not lay out a part of the tract for streets, alleys, squares, parks, or other parts intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts; and,

2) every daughter tract is to be used primarily for agricultural use, as defined by Section 1(d), Article VIII of the Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1(d)(1), Article VIII of the Texas Constitution.

NOTE: If any daughter tract ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of these Regulations shall be applicable.

5. Veterans Purchase:

A. A plat is NOT required if all of the lots are sold to veteran’s through the Veteran’s Land Board program, and the owner of the parent tract does not lay out any streets, alleys, squares, parks, or other parts of the tract intended to be

the owner’s spouse in the third degree of consanguinity, and the spouse of any person related to the owner within the third degree of consanguinity.
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dedicated to public use, or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

6. Government Land:

A. A plat is NOT required for the subdivision of a tract of land belonging to the State or any State agency, board, commission, owned by a Permanent School Fund, or any other dedicated funds of the State unless the subdivision lays out any streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

7. Sale of Government Land in a Floodplain:

A. A plat is NOT required if:

1) the owner is a political subdivision of the State of Texas; and,
2) the land is located in a floodplain; and,
3) the land is sold to adjoining landowners.

8. Partition Among Original Owners:

A. A plat is NOT required for the division of a tract if:

1) all parts are transferred to persons who owned an individual interest in the original tract, and a plat is filed before any further development of any part of the tract; and,
2) the owner does not lay out any streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

NOTE: The exceptions listed in this Section do not apply if new streets/roads are to be constructed in order to provide a daughter tract with access frontage on a public or private road, or if access easements are provided for the use of tract owners adjacent to such easements. An owner who claims an exception to platting may be required to submit documentation to the County to verify he or she is complying with the qualifications of the exception. The documentation may include an affidavit claiming the exception to platting and including a detailed basis.

Hunt County Subdivision Regulations

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for the exception, under penalties of perjury, and copies of deeds or other instruments creating the daughter tracts.
SECTION IX  
Conflicts of Interest

1. If a member of the Commissioners’ Court of Hunt County has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest, and shall abstain from further participation in the matter. The affidavit must be filed with the County Clerk.

2. A member of the Commissioners’ Court of Hunt County commits an offense if the member violates Section VIII (1) above. An offense under this subsection is a Class A misdemeanor.

3. The finding by a Court of a violation of this Section does not render voidable an action of the Commissioners’ Court unless the measure would not have passed the Commissioners’ Court without the vote of the member who violated this Section.

4. In this Section, “subdivided tract” means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.

5. A person has a substantial interest in a subdivided tract if the person:
   A. has an equitable or legal ownership interest in the tract with a fair market value of $2500 or more;
   B. acts as a developer of the tract;
   C. owns ten (10%) percent or more of the voting stock or shares of, or owns either ten (10%) percent or more, or $5000 or more of the fair market value of a business entity that:
      1) has an equitable or legal ownership interest in the tract with a fair market value of $2500 or more; or
      2) acts as a developer of the tract; or
      3) receives, in one calendar year, funds from a business entity described by Section VIII 5(C) that exceed ten (10%) percent of the person’s gross income for the previous year.
D. A person is also considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity to another person, who, under this Section, has a substantial interest in the tract.
SECTION X  
Severability Clause

If any word, phrase, clause, sentence, section, provision, or part of these Subdivision Regulations should be held invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is hereby declared to be the intent of the Hunt County Commissioners Court that these Regulations would have been adopted as to the remaining portions, regardless of the invalidity of any part.
SECTION XI
Enforcement/Penal Provisions

1. The Commissioners Court of Hunt County shall have the authority to refuse to approve or authorize any map or plat of any such subdivision, unless such map or plat meets the requirements as set forth in these Regulations.

2. At the request of the Commissioners Court of Hunt County, the County Attorney or other prosecuting attorney representing the County, may file an action in a court of competent jurisdiction to:
   A. Enjoin the violation, or threatened violation, of a requirement established by or adopted under these Regulations;
   B. Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted under these Regulations;
   C. A person commits an offense if the person knowingly or intentionally violates a requirement established by or adopted under this Act by the Commissioners Court.

3. Oversight. The owner, by submitting a plat, acknowledges the authority of the County and State agencies to lawfully enter and inspect property for purposes of execution of their statutory duties. Such inspection will not release the owner from any obligation to comply with the requirements of these rules. Any such inspection or review will not subject the County or the State of Texas to any action for damage.

4. Civil Penalty. A person who violates a rule adopted by a County pursuant to Section 16.343 of the Texas Water Code is subject to a civil penalty of not less than $50 nor more than $100 for each violation, and for each day of a continuing violation not to exceed $5000 per day.

5. Criminal Penalty. A person commits an offense if the person knowingly or intentionally violates a rule adopted by a County pursuant to Section 16.343 of the Texas Water Code. An offense under this Section is a Class B misdemeanor. An offense under Section VIII is a Class A misdemeanor.

6. Injunction. In addition to other remedies, the Attorney General, the County or District Attorney of the County in which the violation occurred, or other local officials are authorized to apply to the District Court for, and the Court at its discretion may grant the State or political subdivision without bond or other

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6. Injunction. In addition to other remedies, the Attorney General, the County or District Attorney of the County in which the violation occurred, or other local officials are authorized to apply to the District Court for, and the Court at its discretion may grant the State or political subdivision without bond or other
undertaking, any injunction that the facts may warrant including a temporary restraining order, temporary injunction after notice and hearing, and permanent injunctions enjoining a violation of these Regulations.

7. Attorney General Action. The Attorney General may take any action necessary to enforce a requirement imposed by or under Section 232.0035 or 232.0036 of the Texas Local Government Code, or to ensure that the water and sewer service facilities are constructed or installed to service a subdivision in compliance with the model rules adopted under Section 16.343 of the Texas Water Code.

    A. Civil Penalty. A person who violates Section 232.0035 or 232.0036 of the Texas Local Government Code, or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on the plat or on the documents attached to the plat, as required by Section 232.0035, is subject to a civil penalty of not less than $500 nor more than $1000 plus court costs and attorney’s fees for the attorney bringing this action.

    B. Offense. An offense under this Section is a Class B Misdemeanor.

Hunt County Subdivision Regulations

undertaking, any injunction that the facts may warrant including a temporary restraining order, temporary injunction after notice and hearing, and permanent injunctions enjoining a violation of these Regulations.

7. Attorney General Action. The Attorney General may take any action necessary to enforce a requirement imposed by or under Section 232.0035 or 232.0036 of the Texas Local Government Code, or to ensure that the water and sewer service facilities are constructed or installed to service a subdivision in compliance with the model rules adopted under Section 16.343 of the Texas Water Code.

    A. Civil Penalty. A person who violates Section 232.0035 or 232.0036 of the Texas Local Government Code, or fails to timely provide for the construction or installation of water or sewer service facilities that the person described on the plat or on the documents attached to the plat, as required by Section 232.0035, is subject to a civil penalty of not less than $500 nor more than $1000 plus court costs and attorney’s fees for the attorney bringing this action.

    B. Offense. An offense under this Section is a Class B Misdemeanor.
Pursuant to Section 232.0021 of the Texas Local Government Code, the following review fees are required:

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<tr>
<td>Preliminary Plat</td>
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<tr>
<td>Final Plat</td>
<td>$300, plus $25 per lot</td>
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<td>Replat w/o Revised Construction Plans</td>
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<td>Replat w/ Revised Construction Plans</td>
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<td>Variance Request</td>
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<td>Release of Easement</td>
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***Plats submitted as a short form submittal will be assessed the Preliminary Plat Fee.***

Copy of Subdivision Rules and Regulations $10.00/copy
APPENDIX B
Plat Notes for County Officials

County Judge’s Approval

STATE OF TEXAS
COUNTY OF HUNT

I, (CURRENT COUNTY JUDGE), County Judge of Hunt County, Texas, do hereby certify that this final plat, with field notes hereon, having been fully presented to the Commissioner Court of Hunt County, Texas, and by the said Court duly considered, was on this day approved and the plat is authorized to be registered and recorded in the proper records of the County Clerk of Hunt County, Texas.

_____________________________  __________________
(Current County Judge) Date
County Judge, Hunt County, Texas

County Clerk’s Approval

Certificate of Compliance

The undersigned, the County Clerk of Hunt County, Texas, does hereby certify that on the _____ day of _________, 20___, the Hunt County Commissioners Court, by appropriate minute order, did find that this final plat is in compliance with applicable State and County subdivision regulations, and did approve the same for filing in the plat records of Hunt County, Texas.

Certified this ____ day ________, 20__.

______________________________
County Clerk
Hunt County, Texas

County Judge’s Approval

STATE OF TEXAS
COUNTY OF HUNT

I, (CURRENT COUNTY JUDGE), County Judge of Hunt County, Texas, do hereby certify that this final plat, with field notes hereon, having been fully presented to the Commissioner Court of Hunt County, Texas, and by the said Court duly considered, was on this day approved and the plat is authorized to be registered and recorded in the proper records of the County Clerk of Hunt County, Texas.

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(Current County Judge) Date
County Judge, Hunt County, Texas

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Certified this ____ day ________, 20__.

______________________________
County Clerk
Hunt County, Texas
Acceptance of Dedication of Any Public Ways

Certificate of Acceptance of Dedication

The undersigned, the County Clerk of Hunt County, Texas, does hereby certify that on the ______ day of ________, 20___, all the owners of real property described above did execute and deliver unto the Hunt County Commissioners Court their dedication of all streets, alleys, parks, easements, and other public areas to the public, a copy of which is affixed to the face of this plat; and the Hunt County Commissioners Court did, by appropriate minute order, accept the dedication of all streets, alleys, parks, easements, and other public areas on behalf of the public.

Certified this ___ day of ____________, 20__.

________________________________________
County Clerk
Hunt County, Texas

Dedication Statement for Privately Maintained Roads

The undersigned owner of the above described property states and acknowledges that the ______ foot wide strip of land is designated as a private access easement for the benefit of adjoining landowners only, and that the road on said easement is a private road and not a public, nor a County, road of which all buyers and transferees of adjoining property are hereby notified and shall take notice.

Witnessed my hand on this ___ day of ____________, 20__.

_____________________________
Owner

Attest: ____________________, County Clerk

Acceptance of Dedication of Any Public Ways

Certificate of Acceptance of Dedication

The undersigned, the County Clerk of Hunt County, Texas, does hereby certify that on the ______ day of ________, 20___, all the owners of real property described above did execute and deliver unto the Hunt County Commissioners Court their dedication of all streets, alleys, parks, easements, and other public areas to the public, a copy of which is affixed to the face of this plat; and the Hunt County Commissioners Court did, by appropriate minute order, accept the dedication of all streets, alleys, parks, easements, and other public areas on behalf of the public.

Certified this ___ day of ____________, 20__.

________________________________________
County Clerk
Hunt County, Texas

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Witnessed my hand on this ___ day of ____________, 20__.

_____________________________
Owner

Attest: ____________________, County Clerk
Related Statutes
Office of the Attorney General’s Publication:
County Powers and Duties
Dear County Judges:

Thank you for your service to your county and our state. We appreciate the opportunity to work with you. For your information and assistance, enclosed is a list of the counties’ powers and duties in the following areas:

- Regulating land use;
- Regulating structures;
- Platting and subdividing land; and
- Providing and regulating water, sewer and other utility services to residential property.

Pursuant to the Local Government Code, Section 240.903, this list is compiled by the Office of the Attorney General after every regular legislative session. As with last session’s handbook, additions and amendments from the 81st Legislative Session are indicated by legislative bill number and effective date in bold text. Amended provisions of the statutes appear in italics.

The next handbook will be distributed after the 82nd Legislative Session. Until that time, if you need further information or assistance on any other matter, please contact our County Affairs Section at (800) 252-5476.

Sincerely,

Greg Abbott
Attorney General of Texas
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Land Use Regulations

Beaches/Coastal Counties

Local Government Code

§ 240.901
Coastal counties may regulate land, structures, and other development in flood–prone areas and authorize the filing of a notice of a violation of the regulations in the real property records.

§ 240.902
Gulf Coast counties may close part of a public beach for events sponsored by nonprofit organizations in which the public is invited and only a nominal admissions fee is charged.

Natural Resources Code

Chapter 33, Subchapter I (§§ 33.651 - 33.663)
Gulf Coast counties shall create a coastal protection and improvement fund that can be used for qualified projects that accomplish the purposes of mitigation of coastal erosion and improvement of public access to public beaches which now includes the ability to implement a building setback line.

Chapter 61, Subchapter D (§§ 61.121 - 61.131)
The commissioners court of a county bordering on the Gulf of Mexico or its tidewater limits may regulate motor vehicle traffic on any beach, possession of animals on the beach, swimming in passes leading to and from the Gulf of Mexico, and may prohibit the use and possession of all glass containers and products on a beach within the boundaries of the county. The county may adopt criminal penalties for these violations.

Chapter 61, Subchapter G (§§ 61.251 - 61.254)
To protect the public health, safety, and welfare, the commissioners court of a county bordering the Gulf of Mexico or its tidewater limits, by order, may regulate mass gatherings of individuals on any beach in the unincorporated area of the county by requiring a person to obtain a permit and pay a permit fee before the person may hold a mass gathering.

Hazardous Materials

Local Government Code

Chapter 353
A county may provide hazardous materials services, including control and containment measures necessary to protect human health and the environment, in the event of an incident involving hazardous material that has been leaked, spilled, released, or abandoned on any property.

Land Use Regulations

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Transportation Code

Chapter 644, Subchapter E (§§ 644.201 - 644.203)
A political subdivision may designate a route for the transportation of non-radioactive hazardous materials over a public road or highway, but only if the Texas Department of Transportation approves the route. The political subdivision that maintains the route must pay for installation and maintenance of the signs.

Parks & Wildlife

Local Government Code

§ 240.002
A county may regulate or prohibit the keeping of a wild animal, as defined by § 240.001, at a residence.

§ 321.001
A coastal county may establish and operate island parks.

§ 331.001
A county may operate and maintain parks.

§ 331.008
A county may cooperate with cities on joint park, playground, and museum projects.

Parks & Wildlife Code

§ 13.304
A county may construct and maintain public recreational facilities and may enter into agreements with local, state, and federal agencies to do so.

§ 31.092
A county may designate certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety of the public water that is within the county but outside the city's authority.

§ 83.013
Counties may participate in the study and preparation for and creation of a habitat conservation plan and/or a regional habitat conservation plan.

Public Nuisances

Health & Safety Code

§ 341.011(7)
The definition of a "public health nuisance" includes a collection of water that is a breeding area for mosquitoes carrying West Nile virus.

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Public Nuisances

Health & Safety Code

§ 341.011(7)
The definition of a "public health nuisance" includes a collection of water that is a breeding area for mosquitoes carrying West Nile virus.
In the unincorporated area of a county, a county or person affected or to be affected by a violation of Chapter 341 or a rule adopted under Chapter 341.

A county may bring civil suit for civil penalties and/or injunctive relief for a violation of Chapter 341 or a rule adopted under Chapter 341.

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In the unincorporated area of a county, a county or person affected or to be affected by a violation under Chapter 343 may bring a suit in county or district court for injunctive relief to prevent, restrain, abate or otherwise remedy a violation of Chapter 343.

Also, a county may bring suit to prohibit or control access to property in order to prevent continued violations of its public nuisance abatement orders for § 343.011(c)(1), (6), (9), or (10).

If a county adopts abatement procedures that are consistent with the general purpose of and conform to Chapter 343, a county can abate a nuisance under Chapter 343 in various ways depending on the type of nuisances that are defined in § 343.011(c).

A county's nuisance abatement procedures must include in its written notice the specific condition that constitutes a nuisance; how long the person has to abate the nuisance; failure to abate a public nuisance may result in abatement by the county, assessment of costs, and the imposition of a lien against the property on which the nuisance exists; and the county prohibiting or controlling access to the premises to prevent a continued or future nuisance described by § 343.011(c)(1), (6), (9), or (10).

A county may abate a nuisance under § 343.011(c)(6) before conducting a hearing.

A county may assess the cost of abating the nuisance, including management, remediation, storage, transportation, and disposal costs, and damages and other expenses incurred by the county; the cost of legal notification by publication; and an administrative fee of not more than $100 on the person receiving notice under § 343.022. To obtain a lien against the property, the commissioners court must file a notice containing a statement of costs, a legal description of the property, and the name of the property owner, if known.

A county health authority may order a person to abate a public nuisance. If the public nuisance is not abated within the time specified in the order, the local prosecutor shall bring abatement proceedings or may ask the Attorney General to institute the proceedings or to assist him or her in the proceedings.

A county may bring civil suit for civil penalties and/or injunctive relief for a violation of Chapter 341 or a rule adopted under Chapter 341.

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Transportation Code
Chapter 683, Subchapter E (§§ 683.071 - 683.078)
Counties may adopt procedures for the abatement and removal from private or public property or a public right–of–way of a junked vehicle or part of a junked vehicle as a public nuisance.

Real Property Transactions

Education Code
§ 11.1541
The board of trustees of an independent school district may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a county.

Government Code
§ 2252.092
Before a county may purchase real property held in trust, the trustee must submit to the commissioners court a copy of the trust agreement identifying the true owner. A county may not sell real property to a trustee until it receives from the trustee a copy of the trust agreement identifying the person who will be the true owner of the property.

Local Government Code
§ 263.001
The commissioners court may appoint a commissioner to sell or lease real property owned by the county by public auction in accordance with this section unless Chapter 263 provides otherwise.

§ 263.006
The commissioners court may authorize the exchange of county-owned real property interest for an interest in real property owned by an individual, private partnership or corporation, or other private entity, to be used for one or more public purposes for which a county otherwise may acquire land.

§ 263.007(a) - (d)
The commissioners court may adopt a procedure to sell or lease county-owned property by a sealed-bid or sealed-proposal procedure.

§ 263.007(e)(1)
The commissioners court may, without using the sealed-bid, sealed-proposed or any other competitive bidding process, lease real property formerly owned by the Texas Department of Mental Health and Mental Retardation to a federal, state, or local government entity for any purpose or to a nonprofit organization to conduct health and human service activities.
§ 263.051
The commissioners court may lease land and/or the facilities on that land that was acquired for an airport.

§ 263.052
The commissioners court may lease land, housing, or facilities acquired from the federal government under § 270.004.

Chapter 263, Subchapter E (§§ 263.201 - 263.206)
The commissioners court may convey land to the United States Government for certain purposes such as conveyance for certain water projects, public buildings, civil works projects and/or military installations or facilities.

§ 272.001(g)
A county may acquire or assemble land or real property interest, except by condemnation, and may sell, exchange or otherwise convey the land or interests to an entity for the development of low-income or moderate-income housing. The county shall determine the conditions of the transactions so as to effectuate and maintain the public purpose. If conveyance of the land under this section serves a public purpose, the land may be conveyed for less than its fair market value.

§ 272.005
A county may lease county-owned property or provide office space to another political subdivision, state agency or federal government.

§ 280.001
A county, separately or jointly with a city, may acquire land for use by the United States Government.

§ 280.002
A county may accept ownership of property located in the county's jurisdiction conveyed by gift if certain conditions are met. The notice of intent to convey the property must be considered at a meeting of the commissioners court.

Property Code
§ 21.0111
A county that wants to acquire real property for public use, through eminent domain, shall disclose to the property owner, at the time an offer to purchase is made, all existing appraisal reports produced or acquired by the county in determining the final valuation offer.

§ 21.0112
Amended by HB 2685 Effective Date: 1/15/10
Not later than the seventh day before the date a county makes a final offer to a property owner to acquire real property by eminent domain, the county must send by first-class mail or otherwise provide a landowner's bill of rights statement provided
by Government Code § 402.031, to the last known address of the person in whose name the property is listed on the most recent tax roll of any appropriate taxing unit authorized by law to levy property taxes against the property.

Also, the county shall provide a copy of the landowner's bill of rights statement to a landowner before or at the same time as the entity first represents in any manner to the landowner that the county possesses eminent domain authority.

Tax Code

§ 34.06(f)

A county is entitled to recover from the proceeds of a resale of property any cost incurred by the county for inspecting the property for release or threatened release of solid waste from the property, or for a discharge or threatened discharge of waste or a pollutant into or adjacent to water, and in taking action to remove or remediate the release or threatened release or discharge.

Miscellaneous Provisions

Health & Safety Code

Chapter 361, Subchapter X (§§ 361.901 - 361.912)
The commissioners court of a county with a population of 250,000 or more may establish a program for the cleanup and economic redevelopment of "brownfields" (the expansion, redevelopment, or reuse of real property which may be complicated by environmental contamination).

§ 713.027

A county with a population of 8,200 or less may own, operate, and maintain a cemetery and may sell the right of burial in the cemetery.

§ 713.028

For purposes of historical preservation or public health, safety, or welfare, a commissioners court may use public funds, county employees, county inmate labor as provided by Art. 43.10 of the Code of Criminal Procedure, and county equipment to maintain a cemetery and open and close graves in a cemetery that has a grave marker more than 50 years old.

Local Government Code

§ 81.032

The commissioners court may accept a gift, grant, donation, bequest, or devise of money or other property on behalf of the county for the purpose of performing a function conferred by law on the county or a county officer.

Chapter 234, Subchapter D (§§ 234.101 - 234.107)
Added by HB 3094 Effective date: 6/19/09

The commissioners court by order may prohibit or otherwise regulate massage parlors located in the unincorporated area of the county.
Local Government Code (cont.)

Chapter 240, Subchapter B (§§ 240.031 - 240.035)
Upon the request of the director of the McDonald Observatory, George Observatory, Stephen F. Austin State University Observatory, or a United States military installation, a county near a major astronomical observation site may regulate outdoor lighting in any unincorporated territory of the county.

§ 291.007
A county with a population of less than 40,000 may order a nonbinding referendum on any matter affecting county property.

§ 352.051
A commissioners court may prohibit or restrict the sale or use of aerial fireworks in an unincorporated portion of the county where "drought conditions" exist on average, as determined by the Texas Forest Service.

§ 352.081
The commissioners court may prohibit or restrict outdoor burning if drought conditions have been determined to exist by the Texas Forest Service or if a finding is made that circumstances present in all or part of the unincorporated area create a public safety hazard that would be exacerbated by outdoor burning. A county may not prohibit outdoor burning related to public health and safety, as authorized by the Texas Commission on Environmental Quality, or burning that is conducted by a prescribed burn manager under Natural Resources Code § 153.048, and meets the standards of Natural Resources Code § 153.047.

Natural Resources Code
Chapter 71, Subchapter A (§§ 71.001 - 71.010)
A county may lease its land for mineral development.

Transportation Code
Chapter 396, Subchapter C (§§ 396.041 - 396.045)
A county may require a junkyard or automotive wrecking and salvage yard to be licensed by the county. The commissioners court must hold a public hearing before adopting a resolution requiring licensing of junkyards or automotive wrecking and salvage yards.
Structure Regulations

Family Code

§ 153.014
A county may establish a visitation center or a visitation exchange facility for the purpose of carrying out the terms of a court order providing for the possession of or access to a child.

Government Code

§ 442.008
A county may not demolish, sell, lease, or damage the historical or architectural integrity of any building that serves or has served as a county courthouse without notifying the Texas Historical Commission of the intended action at least six months before the date on which it acts. A county may carry out ordinary maintenance of and repairs to a courthouse without notifying the commission.

§§ 442.0081 - 442.0083
An eligible county may issue negotiable bonds and certificates of obligation to build or improve permanent facilities for use by an institution of higher learning in the county.

§ 1434.051
An eligible county may issue negotiable bonds and certificates of obligation to build or improve permanent facilities for use by an institution of higher learning in the county.

Local Government Code

§ 233.002
A county may establish building or setback lines on public roads in a county.

Chapter 233, Subchapter C (§§ 233.061 - 233.067)
A county that has a population of more than 250,000 or is adjacent to a county with a population of more than 250,000 may adopt a fire code and rules necessary to administer and enforce the fire code in the unincorporated area.

These fire codes apply to only certain buildings and the fire code must conform to the International Fire Code or the Uniform Fire Code as the codes existed on May 1, 2005. A person may not construct or substantially improve certain buildings unless a building permit is obtained. Building inspectors may enter and perform inspections at a reasonable time at any stage of the construction or substantial improvements and after the completion of the building. If after the inspection of the completed building, the inspector finds the building does not comply with fire code, the county shall deny certificate of compliance, and the building may not be occupied.

Structure Regulations

Family Code

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In a county that is located within 50 miles of an international border or has a population of more than 100, by order or resolution, shall require new residential construction of a single-family house or duplex, beginning after September 1, 2009, in the unincorporated area of a county to conform to the version of the International Residential Code published as of May 1, 2008, or version of the International Residential Code that is applicable in the county seat of that county.

§ 292.0025
In a county with a population of less than 18,000, the commissioners court may provide an auxiliary court, office building, or jail facility at a location in the county and within five miles of the boundaries of the county seat in the same manner that is applicable to similar facilities at the county seat.

§ 292.030
A commissioners court may buy, build, improve, lease, or lease/purchase branch county offices in the unincorporated areas of the county.

§ 301.001
The commissioners court of a county and the governing body of a municipality in that county may jointly erect, acquire, equip, maintain, and operate a recreational or cultural facility.

§ 302.002
A county may enter into energy savings performance contracts with a provider for energy or water conservation or usage measures in which the estimated energy savings increase in billable revenues, or increase in meter accuracy resulting from the measures, offset the cost of the measures over a specified period.

§ 302.003
A county shall require the provider of the energy or water conservation or usage measures to file a payment and performance bond. A county may also require a separate bond to cover the value of the guarantee as defined by § 302.001(5).

§ 302.004
A county may finance an energy savings performance contract either under a lease-purchase contract not to exceed 20 years from a particular date or under a contract with the provider of the measures that has a term not to exceed the lesser of 20 years from a particular date or the average useful life of the measures. The contract shall contain provisions requiring the provider of the measures to provide a guarantee.
Local Government Code (cont.)

§ 302.005
A county can use the procedure for procuring professional service under Government Code § 2254.004 to award an energy saving performance contract, but shall use the notice requirement for competitive bidding to receive request for qualifications from interested providers. Before entering a contract with a provider, the county must hire a certain licensed professional engineer to review the projected energy savings, increase in billable revenue, or increase in meter accuracy.

§ 302.006
A county that has an energy saving performance contract that provides for any metering and includes a meter guarantee by the provider shall receive an engineer report concerning the average accuracy of the tested meters no later than the fifth anniversary of the effective date of the contract. If the report shows that the average accuracy of the tested meters is less than the baseline average accuracy, then the meter guarantee applies.

§ 316.022
A commissioners court of a county with a population of 1.2 million or more may enter into a contract with a nonprofit organization authorizing the nonprofit to manage and operate a museum, historical site, historical building, or similar building or site and charge and collect a fee from the general public for admission. The commissioners must set the fee for admission.

Chapter 319
A county may establish and maintain a museum, building or other improvement to house an annual exhibition of horticultural, agricultural, livestock, mineral, and other products that are of interest to the community. A county can cooperate with another county or with local interests to construct a museum, building or improvements.

A county may contract for the complete management of such facilities. A county may lease such buildings, improvements, or exhibits. A county may permit the use of such facilities for any public purpose determined to be of benefit to the county or its residents.

§ 323.021
The commissioners court of a county by order may establish and maintain a county law library at the county seat.
Local Government Code (cont.)

Chapter 352, Subchapter E (§§ 352.111 - 352.120)
Added by HB 1063 Effective date: 9/1/09
A county may regulate vehicular or pedestrian gates to gated communities and multi-unit housing projects in unincorporated areas of the county to assure reasonable access for fire-fighting vehicles and equipment, emergency medical services vehicles, and law enforcement officers.

The commissioners court by order may require that each electric gate to a gated community or multiunit housing project be equipped with a gate-operated device that is approved by the county marshal and will activate the electric gate on the sounding of an emergency vehicle siren.

§ 381.002
A commissioners court may appoint a historical commission to initiate and conduct programs suggested by the commissioners court and the Texas Historical Commission for preservation of the county's historical cultural resources.

Health and Safety Code
§ 281.050
Added by SB 1478 Effective Date: 6/19/09
The commissioners court must approve the sale or lease of a hospital facility. The commissioners court must approve the hospital district board’s lease on undeveloped real property for not more than 50 years to provide for the development and construction of facilities designed to generate revenue for the financial benefit of the district.

§ 281.051
The commissioners court must approve a contract entered into by a hospital district board with other governmental entities.

Property Code
§ 81.003
A county planning or zoning commission may adopt rules and regulations governing condominiums which supplement the Uniform Condominium Act.

Vernon's Revised Civil Statutes
Article 1524c
A county has authority to certify applications for creation of housing corporations.
Plat and Subdivision Regulations

Local Government Code

§ 212.046
A county may not issue a building permit or any other type of permit for the development of lots or tracts subject to Local Government Code, Chapter 212, Subchapter B, until a development plat is filed and approved in accordance with § 212.047.

Chapter 232, Subchapter A (§§ 232.001 - 232.011)
Applies statewide to subdivisions, except subdivisions falling under Chapter 232, Subchapter B (see below).

§ 232.001
When subdividing land located outside the limits of a municipality, the owner must generally have a plat prepared and have the plat filed and recorded with the county clerk.

§ 232.0013
This section limits a county’s authority to regulate plats or subdivisions in the extraterritorial jurisdiction of a municipality.

§ 232.0015
A county may classify divisions of land and determine whether specific divisions must be platted. Except as provided by § 232.0013, this section does not apply to land to which Subchapter B applies.

§ 232.002
A county must approve subdivision plats meeting state and county requirements.

§ 232.0021
A county may charge a plat application fee.

§ 232.0025
A county must prepare a written list of the documentation and other information that must be submitted with a plat application. A county must notify applicants when an application is missing required documentation within 10 business days of the date the application was received. Once a plat application is complete, a county must usually take final action on it within 60 days. If the commissioners court disapproves the plat application, the applicant shall be given a complete list of the reasons for the disapproval.

Plat and Subdivision Regulations

Local Government Code

§ 212.046
A county may not issue a building permit or any other type of permit for the development of lots or tracts subject to Local Government Code, Chapter 212, Subchapter B, until a development plat is filed and approved in accordance with § 212.047.

Chapter 232, Subchapter A (§§ 232.001 - 232.011)
Applies statewide to subdivisions, except subdivisions falling under Chapter 232, Subchapter B (see below).

§ 232.001
When subdividing land located outside the limits of a municipality, the owner must generally have a plat prepared and have the plat filed and recorded with the county clerk.

§ 232.0013
This section limits a county’s authority to regulate plats or subdivisions in the extraterritorial jurisdiction of a municipality.

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A county may classify divisions of land and determine whether specific divisions must be platted. Except as provided by § 232.0013, this section does not apply to land to which Subchapter B applies.

§ 232.002
A county must approve subdivision plats meeting state and county requirements.

§ 232.0021
A county may charge a plat application fee.

§ 232.0025
A county must prepare a written list of the documentation and other information that must be submitted with a plat application. A county must notify applicants when an application is missing required documentation within 10 business days of the date the application was received. Once a plat application is complete, a county must usually take final action on it within 60 days. If the commissioners court disapproves the plat application, the applicant shall be given a complete list of the reasons for the disapproval.
Local Government Code (cont.)

§ 232.003
A county may set specifications for subdivisions regarding road construction and drainage systems. A county may require a subdivider to include in all contracts with purchasers of subdivided land a statement describing the availability of water in the subdivision. A county may also require a subdivider to execute a bond in an amount adequate to ensure proper construction of roads, streets and drainage. A county may adopt specifications that provide for efficient stormwater runoff in the subdivision and coordinate subdivision drainage with area drainage. A county may require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.

§ 232.0031
A county may not impose stricter standards for streets or roads in a subdivision than it imposes on itself for streets or roads with similar traffic.

§ 232.0032
When a person submits a plat for the subdivision of land for which the source of the water supply intended for that subdivision is groundwater under the land, the commissioners court may require the plat application to have attached a statement prepared by an engineer certifying that adequate groundwater is available for the subdivision.

The person also has to transmit to the Texas Water Development Board and any groundwater conservation district any part of the plat that would be useful in: (1) performing groundwater conservation district activities; (2) conducting regional water planning; (3) maintaining the state’s groundwater database; or (4) conducting studies for the state related to groundwater.

§ 232.0033
If all or part of a subdivision for which a plat is required is located within a future transportation corridor identified in an agreement under Section 201.619 of the Transportation Code, the commissioners court may refuse to approve the plat unless the plat states that the subdivision is located within the area of the alignment of a transportation project, as shown in the final environmental decision document, and if all or parts of the subdivision is located within that area.

§ 232.004
If the commissioners court requires the owner of a tract to execute a bond before subdividing the tract, the bond must be adequate to insure proper and timely construction of the roads, streets, and drainage requirements.

§ 232.0045
In lieu of the bond required in § 232.004, the owner may deposit cash, a letter of credit issued by a federally insured financial institution or other acceptable financial guarantee.
§ 232.0048
If a member of a commissioners court or a member's spouse, parent, or child has a substantial interest in a subdivided tract, the member shall, before any vote or decision on plat approval, file an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. A violation is a Class A misdemeanor.

§ 232.005
At the request of the commissioners court, the county attorney or other prosecuting attorney for the county may file an action to enjoin a violation of the requirements established or adopted by the commissioners court or to recover damages resulting from a violation.

§ 232.007
A commissioners court may adopt minimum infrastructure requirements for a manufactured-home rental community located in the unincorporated areas of the county. Also, the commissioners court may only adopt minimum infrastructure standards for ingress and egress access by fire and emergency vehicles that are reasonably necessary.

§ 232.008
A commissioners court may permit the cancellation of all or part of a subdivision and re-establish the property as acreage tracts as it existed prior to subdivision. A commissioners court may deny the cancellation of all or part of a subdivision if the commissioners court determines that the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development.

§ 232.010
The county may allow conveyance of portions of lots previously platted by metes and bounds description without revising the plat.

§ 232.011
The commissioners court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed to correct certain errors or omissions.

Chapter 232, Subchapter B (§§ 232.021 - 232.044)
Applies only to counties where:
1) any part of which is within 50 miles of an international border, or
2) any part of which is within 100 miles of an international border that contains the majority of the area of a municipality with a population of more than 250,000 and (1) does not apply.
Also, the subchapter only applies to subdivisions of two or more lots intended primarily for residential use in the jurisdiction of the county.
§ 232.022(c-1)
Land in a municipality’s extraterritorial jurisdiction (ETJ) is not considered to be within the county’s jurisdiction if the municipality and county agree in writing under § 242.001 that the municipality will regulate subdivision plats and approve related permits in the ETJ.

§ 232.024
Amended by SB 2253 Effective Date: 6/19/09
The commissioners court in a county subject to Subchapter B shall refuse to approve a residential subdivision plat unless it complies with requirements specified in Chapter 232, Subchapter B.

The commissioners court may not approve a plat if any part of the plat applies to land intended for residential housing and lies in a flood plain, unless the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315 of the Water Code and the plat evidences a restrictive covenant prohibiting the construction of residential housing in any area of the subdivision that is in a flood plain unless the housing is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315 of the Water Code.

The commissioners court may establish a planning commission with its findings and decisions subject to the same provisions applicable to the commissioners court under this chapter.

§ 232.025
A county subject to Subchapter B shall establish regulations for roads and drainage in subdivisions and require statements in purchase contracts describing how and when services will be made available as well as a bond be executed.

§ 232.026
A county subject to Subchapter B may extend the date by which water and sewer service facilities must be fully operable but must notify the attorney general of the reason for any extension.

§ 232.027
A county subject to Subchapter B shall require subdividers of land on which water and sewer facilities have not yet been installed to execute and maintain in effect a bond or cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter.
Local Government Code (cont.)

§ 232.028  
Amended by SB 2253 & SB 1676 Effective Dates: 6/19/07 & 9/1/09 respectively  
After approving a plat, a county subject to Subchapter B shall issue to the person applying for the approval a certificate of approval of the plat. The commissioners court on its own motion or certain people may request that the county make determinations regarding a lot’s or subdivision’s water, sewer, electrical and gas facilities. A county may adopt rules necessary to administer the duties of this section. It may also impose a fee for a certificate issued for a subdivision, which is located in the county and not within the limits of a municipality. The fee may be the greater of $30 or the amount of the fee imposed by the municipality for a subdivision located in the county and not within the limits of a municipality. If subdivided land has been platted before utilities can be installed.

A utility that does not hold a certificate or has not received a determination about a certificate, can still provide electricity or gas to a single-family residential dwelling if certain conditions are met.

The commissioners court may impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The fee may be the greater of $30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115 of the Local Government Code.

§ 232.029  
Amended by SB 2253 & SB 1676 Effective Dates: 6/19/09 & 9/1/09 respectively  
In counties where any part is located within 50 miles of an international border, a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a certificate from the commissioners court that adequate water and sewer services have been installed to service the lot or subdivision.

A utility that does not hold a certificate or has not received a determination about a certificate, can still provide electricity or gas to a single-family residential dwelling if certain conditions are met.

The commissioners court may impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality. The fee may be the greater of $30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115 of the Local Government Code.

§ 232.0291  
In counties where any part of which is within 100 miles of an international border that contains the majority of the area of a municipality with a population of more than 250,000, the commissioners court must certify that subdivided land has been platted before utilities can be installed.

§ 232.030  
The commissioners court shall adopt and enforce the model rules developed under Sec. 16.343 of the Water Code and other regulations.

§ 232.0305  
A commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations.
Local Government Code (cont.)

§ 232.034  A member of a commissioners court with an interest in a subdivided tract must, before a vote or decision regarding the approval of a plat for the tract, file an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. Violation of this requirement is a Class A misdemeanor, conviction upon which constitutes official misconduct and is grounds for removal from office.


§ 232.039  A county subject to Subchapter B may cancel a subdivision only after interested persons are allowed to be heard at a public hearing.

§ 232.041  A county subject to Subchapter B shall publish notice of an application to revise a subdivision plat and shall adopt an order to permit the revision if certain conditions are met.

§ 232.042  A county subject to Subchapter B may grant a delay or variance from compliance with the replatting provision in § 232.040 and must notify the attorney general within 30 days of granting the variance or delay.

§ 232.043  A county subject to Subchapter B may grant a delay or variance from compliance with the subdivision requirements on the request of a subdivider who created an unplatted subdivision or a resident lot purchaser when certain conditions apply.

§ 232.044  The commissioners court may approve and issue an amending plat if the amending plat is signed by the applicants and filed to correct certain errors or omissions that are provided by § 232.011.

Chapter 232, Subchapter C (§§ 232.071 - 232.081)  Applies only to subdivided land
1) outside the city limits,  
2) in counties in which is located a political subdivision that is eligible for and has applied for financial assistance under certain provisions of the Water Code, and  
3) not subject to Subchapter B.
Also, the subchapter only applies to subdivisions with lots of five acres or less intended for residential purposes and located outside a municipality.
The commissioners court approves subdivision plats and ensures that the plats are appropriately filed. The plats must contain certain information related to water and sewer service facilities. The commissioners court may establish a planning commission which is subject to the same provisions applicable to the commissioners court under this subchapter.

The commissioners court must require a subdivider to execute and maintain a bond or cash deposit, unless installation of all water and sewer service facilities is complete when an application for plat is finally approved. A letter of credit will only satisfy this section if the letter of credit is irrevocable and issued by an institution guaranteed by the Federal Deposit Insurance Corporation.

The commissioners court may extend the date on which water and sewer facilities must be fully operable if an extension would be reasonable and not contrary to the public interest.

Upon approval of a plat, the commissioners court must issue the person applying for the approval a certificate stating that the plat was approved. If certain people make a written request for a determination of whether a plat is required under this subchapter for an identified tract of land, the commissioners court shall make a determination and issue a certificate of its determination to the requestor.

A county providing water, sewer, gas, electric, or other utility service may not serve or connect land with those services unless it has been presented with a certificate under Local Government Code § 232.076.

A commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to insure compliance with subdivision regulations.

If a member of a commissioners court or a member's spouse, child, or parent has an interest in a subdivided tract, the member shall, before any vote or decision on plat approval, file an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. A violation is a Class A misdemeanor, and conviction constitutes official misconduct and is grounds for removal from office.
issues to arbitration.

responsibilities of each, but are unable to reach such an agreement, must submit their

A county and city that are required to make an agreement establishing the regulatory

Interlocal Cooperation agreement with the county.

unincorporated area of the county that are outside the city

jurisdiction (ETJ) of the city. The city cannot regulate plats or subdivisions in the

governmental entity will regulate plats and subdivisions in the extraterritorial

required to enter into a written agreement with a city determining which

Counties may adopt subdivision rules to promote the health, safety, morals, or

general welfare of the county and the safe, orderly, and healthful development of the

unincorporated area of the county. The counties may require wide rights-of-way,

minimum lot frontages, and permanent setbacks. They may enter into developer

participation contracts without competitive bidding. They may also regulate utility

service to residential subdivision lots, as set out in Local Government Code, §§

232.029 or 232.0291. Also, the counties may impose plat requirements prescribed

by Local Government Code, §232.023. And in certain subdivisions, the county may

require a limited fire suppression system.

A Trinity River Basin county may regulate the future construction of residences and

the laying out of residential lots and subdivisions in the 100-year flood plain of the

Trinity River Basin.

Certain counties that are subject to Subchapters A, B, C, or E of Chapter 232 are

required to enter into a written agreement with a city determining which

governmental entity will regulate plats and subdivisions in the extraterritorial

jurisdiction (ETJ) of the city. The city cannot regulate plats or subdivisions in the

unincorporated area of the county that are outside the city’s ETJ, unless there is an

Interlocal Cooperation agreement with the county.

A county and city that are required to make an agreement establishing the regulatory

responsibilities of each, but are unable to reach such an agreement, must submit their

issues to arbitration.
Property Code

§ 203.003
In a county with a population of more than 200,000, the county attorney may bring a suit to enjoin or abate a violation of a restriction contained or incorporated by reference in a properly recorded plan, plat, replat, or other instrument affecting a real property subdivision located in the county.

Transportation Code

§ 253.003
A county may propose to improve subdivision roads and assess the costs of such improvements to the property owners of the subdivision or defined portion of a subdivision if the requirements of Chapter 253 are followed.

§ 253.012
The county may improve the roads in a subdivision or an access road to a subdivision that is located in a city, if the city council and the commissioners court agree that the county may improve the road and whether the improved road will become a county road or a city road. The county must meet the requirements of Chapter 253 (except § 253.011), and the commissioners court must find that the improvement of the road serves a county purpose.

§ 280.003
In counties that have any territory located within 150 miles of an international boundary, the commissioners court may provide street lights along a county road located in a subdivision in the unincorporated area of the county.

Water Code

§ 26.179(k)
A county that has a designated water quality protection zone shall approve a subdivision plat located within that zone if the plat complies with subdivision regulations and if a registered professional engineer acknowledges that the plat is in compliance with the water quality plan of the protected zone.
Electric Utilities

Utilities Code

§ 164.001
Two or more political subdivisions may jointly finance, construct, and operate electric utility facilities.

§ 164.003
An agreement between political subdivisions to jointly own and operate electric utility facilities must be submitted to the Attorney General for approval.

§ 181.044
A county may designate where electric lines should be placed in the right-of-way of a county road.

§ 181.046
A county may require an electric utility to relocate an electric utility line, at the utility’s expense, to allow the widening of a right-of-way, changing of a traffic lane, improving of road bed, or improving of drainage ditch in the right-of-way. The county must give the utility 30 days written notice.

Gas Utilities

Government Code

Chapter 1477, Subchapter C (§§ 1477.101 - 1477.122)
A county in which the county seat is an unincorporated community or city with a population of more than 5,000 and the commissioners court has adopted this subchapter by order may acquire a natural gas system for supplying natural gas to county buildings adequately and dependably. Bonds may be issued payable and secured by pledge of the net revenue of the system. The county shall pay for gas used by the county for its own facilities. Free service is prohibited. The county can sell any natural gas that is not needed for county purposes to a municipal corporation or political subdivision of this state, or an individual, corporation, or company under terms that the court determines are in the best interests of the county.
Utilities Code

§ 181.024.
A county may designate where gas lines should be placed in the right-of-way of a county road.

§ 181.025
A county may require a gas utility to relocate a gas utility facility, at the utility’s expense, to allow the widening or other changing of a traffic lane. The county must give the utility 30 days written notice.

On-Site Sewage (Septic Tanks)

Health and Safety Code

§ 366.005
The authorized agent, as defined by § 366.002(1), may use the weekly list of new electric connections to implement and enforce rules relating to on-site sewage disposal systems. The list is required to be compiled by the electric utilities and forwarded to the county judge, or a designated county officer or employee who then forwards the list to each authorized agent, appraisal district and emergency communication district in the county.

§ 366.011
Authorized agents have general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems and must administer Chapter 366 and the rules adopted under Chapter 366.

§ 366.013
Under specified conditions, the owner may install or use a water softener that discharges effluents into on-site sewage disposal systems.

§ 366.014
An authorized agent may designate a person holding a license from the Texas Commission on Environmental Quality (formerly Texas Natural Resource Conservation Commission) to review permit applications, site evaluations, or planning materials or to adjust on-site sewage disposal systems.

§ 366.017
An authorized agent may require a property owner to repair a malfunctioning on-site sewage disposal system within a certain amount of time and may assess an administrative or civil penalty if the system is not repaired.
Health & Safety Code (cont.)

§ 366.031
To be designated an authorized agent, a local governmental entity must first notify the Texas Commission on Environmental Quality that the entity wants to regulate the on-site sewage disposal systems in its jurisdiction. It must then hold a public hearing, adopt an order or resolution in accordance with § 366.032, and submit the order or resolution to the commission.

§ 366.035
A local governmental entity that applies to the Texas Water Development Board for financial assistance under a program for economically distressed areas must take all actions necessary to receive and maintain a designation as an authorized agent.

§ 366.036
If a local governmental entity that has been designated as an authorized agent intends to apply to the Texas Water Development Board for financial assistance under a program for economically distressed areas, the commissioners court must prepare a map of the county area outside the limits of municipalities, showing where different types of on-site sewage facilities may and may not be appropriately located.

§ 366.051
Authorized agents issue the permits required to construct, alter, repair, extend, or operate on-site sewage disposal systems.

§ 366.0515
An authorized agent by order or resolution may condition the approval of a permit for an on-site sewage disposal system using aerobic treatment on the system’s owner contracting for maintenance of the system and may place certain requirements that the maintenance company must perform.

If an authorized agent determines that an owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner’s system directly has violated Chapter 366, or a rule adopted or order or permit issued under Chapter 366, the owner shall correct the violation or enter into a contract for the maintenance of the system within a certain time period and is subject to an administrative penalty.

§ 366.055
An authorized agent must review the proposal and inspect the on-site sewage disposal system to ensure compliance.

§ 366.056
An authorized agent may approve or disapprove an on-site sewage disposal system based on the inspection.
Sewage Regulations

Local Government Code

§ 412.015
Counties, as defined by Water Code § 16.341, may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402 of the Local Government Code.

§ 412.016
A county may acquire, own, finance, operate, or contract for the operation of a water or sewer utility system to serve an unincorporated area of the county in the same manner as a municipality under Chapter 402 of the Local Government Code. A county may issue bonds to finance the water or sewer utility system and may acquire interest in property necessary to operate a system authorized in this section through any means available to the county, including eminent domain.

§ 562.018
Renumbered by SB 1969 Effective Date: 9/1/09
The commissioners court of certain border counties may acquire, construct, or operate a water supply system of a sewage system to serve unincorporated areas of the county. These counties may enter a management or lease agreement with another public or private entity for the operation of the water or sewage system. These counties may apply for and receive grants or other assistance from a state or federal governmental entity. These counties may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402 of the Local Government Code.

Solid Waste

Health and Safety Code

§ 361.0961
A county may not prohibit or restrict the sale or use of a container for solid waste management purposes, processing of solid waste by a solid waste facility, or assess a fee or deposit for the sale or use of a container.

§ 361.153
A county may appropriate and spend money from its general revenues to manage solid waste and to administer a solid waste program and may charge reasonable fees for those services.

Sewage Regulations

Local Government Code

§ 412.015
Counties, as defined by Water Code § 16.341, may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402 of the Local Government Code.

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A county may acquire, own, finance, operate, or contract for the operation of a water or sewer utility system to serve an unincorporated area of the county in the same manner as a municipality under Chapter 402 of the Local Government Code. A county may issue bonds to finance the water or sewer utility system and may acquire interest in property necessary to operate a system authorized in this section through any means available to the county, including eminent domain.

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Solid Waste

Health and Safety Code

§ 361.0961
A county may not prohibit or restrict the sale or use of a container for solid waste management purposes, processing of solid waste by a solid waste facility, or assess a fee or deposit for the sale or use of a container.

§ 361.153
A county may appropriate and spend money from its general revenues to manage solid waste and to administer a solid waste program and may charge reasonable fees for those services.
§ 364.011  A commissioners court by rule may regulate solid waste collection, handling, storage, and disposal in areas of the county outside municipalities. A county may not impose an unreasonable requirement on the disposal of the solid waste that is not warranted by the circumstances or authorize an activity, method of operation, or procedure that is prohibited by Health & Safety Code Chapter 361 or by rules of the Texas Commission on Environmental Quality. A county may enforce its rules through legal proceedings.

§ 364.012  A county may prohibit disposal of municipal or industrial solid waste in the county if the disposal of solid waste is a threat to public health, safety, and welfare. A county may not prohibit the processing or disposal of solid waste in an area of the county for which a permit or application for permit or other authorization under Health & Safety Code Chapter 361 has been filed and is pending before the Texas Commission on Environmental Quality.

§ 364.013  A county may acquire, construct, operate, and maintain all or part of one or more solid waste disposal systems. A county may also contract out the collection, transportation, and handling of solid waste.

§ 364.014  A county may acquire land for solid waste management programs.

§ 364.015  The commissioners court shall decide how much to pay to acquire land to locate garbage disposal grounds. In determining where to locate dumping or garbage disposal grounds, the commissioners court shall consider: (1) the convenience of the people to be served; and (2) the general health of, and the annoyance to, the community to be served by the dumping or garbage disposal grounds.

§ 364.034  A county may offer, require the use of, and charge fees for solid waste disposal service to persons in its territory. A county can also establish the service as a utility separate from other utilities in its territory. A fee for this service may be collected by the county, by a private or public entity that contracts with the county to provide the service, or by another private or public entity that contracts with the county to collect the fees. A county may contract with a public or private utility to collect a fee for a service.

A county can not restrict an entity's right to contract with a licensed waste hauler for the collection and removal of domestic septage or of grease trap waste, grit trap waste, lint trap waste, or sand trap waste.
Health & Safety Code (cont.)

§ 364.037
A county that offers solid waste disposal services may enter into an agreement with certain other political subdivisions to help it collect unpaid utility or solid waste disposal fees.

§ 365.012(m)
A county may offer a $50 reward for reports of illegal dumping that result in prosecution.

§ 365.015
A district or county attorney may file civil suit to restrain violations of the Litter Abatement Act and recover attorney fees and costs.

§ 365.017
A county may adopt regulations to control disposal of litter and the removal of illegally dumped litter from private property in unincorporated areas of the county. A district or county attorney may file civil suit to restrain violations of this section, recover the costs of removal of illegally dumped litter and recover attorney fees and costs.

§ 365.034
The commissioners court of a county may by order prohibit the accumulation of litter for more than 30 days on a person's property within 50 feet of a public highway in the county; provide for the removal and disposition of the accumulated litter, and provide for the assessment against the property owner from which litter is removed of the costs incurred by the county in removing and disposing of the litter. The commissioners court shall send a notice by certified mail to the record property owners before the commissioners court can take action to remove or dispose of the litter.

§ 368.012
A county with a population of less than 375,000 may regulate waste haulers.

Water Regulations & Utilities

Government Code

§ 1474.151
A county may own or build reservoirs, dams, levees, wells, canals or other improvement required for the proper and efficient irrigation of the land in the county. A county may acquire by purchase or condemnation rights-of-way and other lands necessary to construct such improvements.
Government Code (cont.)

§ 1474.152
A county shall control and manage the affairs and operations of an irrigation system in the same manner of a water improvement district operated under Chapter 49 of the Water Code.

Health & Safety Code

§ 341.048
A county may seek injunctive relief and damages for violations of public drinking water standards. The Texas Commission of Environmental Quality is a necessary and indispensable party in a suit brought by a county.

Local Government Code

§ 411.001
A county may acquire public or private real property for the purpose of building canals, drains, levees, and other improvements to provide for flood control and water outlets.

§ 411.002
The commissioners court may contract with other political subdivisions to jointly acquire a right-of-way and to jointly construct or maintain a canal, drain, levee or other improvement for flood control.

Chapter 412, Subchapter A (§§ 412.001 - 412.005)
A county may sell and deliver surplus county water to a public corporation of this state or other political subdivisions. The money received from the sale are credited to the county's general fund.

§ 412.014
A county may acquire by purchase, gift, lease, or any other method except condemnation, property necessary to obtain a surface water supply or transport and deliver surface water.

§ 412.015
Counties, as defined by Water Code § 16.341, may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402 of the Local Government Code.

§ 412.016
A county may acquire, own, finance, operate, or contract for the operation of a water or sewer utility system to serve an unincorporated area of the county in the same manner as a municipality under Chapter 402 of the Local Government Code. A county may issue bonds to finance the water or sewer utility system and may acquire interest in property necessary to operate a system authorized in this section through any mean available to the county, including eminent domain.
The commissioners court of certain border counties may acquire, construct, or operate a water supply system or a sewage system to serve unincorporated areas of the county. These counties may enter a management or lease agreement with another public or private entity for the operation of the water or sewage system. These counties may apply for and receive grants or other assistance from a state or federal governmental entity. These counties may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402 of the Local Government Code.

A county that shares a boundary with Mexico may contract for the acquisition of water rights in Mexico if approved and monitored by the Texas Commission on Environmental Quality, the International Boundary and Water Commission, United States and Mexico.

A county may pay for relocating water lines owned by a water control and improvement district if necessary to complete construction or improvements to a farm-to-market road and the district agrees to pay the county for the relocation cost within 20 years and with certain interest.

A county may bring civil suit for violation or threat of violation of various chapters of the Water Code and the Health & Safety Code.

An affected county (as defined by Local Government Code, Chapter 232, Subchapter B) shall provide written notice to each ratepayer eligible to appeal a change in water, drainage, or sewer rates not later than the 30th day after the date of a final decision on a rate change.

An affected county (as defined by Local Government Code, Chapter 232, Subchapter B) shall have the right to select and engage experts to conduct investigations, present evidence, advise and represent the governing body and assist with litigation on water and sewer utility rate making proceedings.

An affected county (as defined by Local Government Code, Chapter 232, Subchapter B) that furnishes retail water or sewer utility service shall furnish the service, instrumentalities, and facilities safely, adequately, efficiently and reasonably.
§ 13.141
A utility owned by an affected county (as defined by Local Government Code, Chapter 232, Subchapter B) may not bill the state or a state agency or institution before the service is rendered.

§ 13.242(a)
Before rendering retail water or sewer utility service to the public, a county-operated utility in an affected county (as defined by Local Government Code, Chapter 232, Subchapter B) must obtain from the Texas Commission on Environmental Quality a certificate that acknowledges that present or future public convenience and necessity will require the installation, operation, or extension of such retail water or sewer utility service.

§ 16.053(l)
A county may contract with a regional water planning group to assist the group in developing or revising a regional water plan.

§ 16.055(g)
Immediately upon the declaration of a state of disaster in a county due to drought conditions, the county must (1) publish notice of the declaration in one or more newspapers having general circulation in the county; and (2) give notice of the declaration to the regional water planning group's chairman and each person or entity that is required to develop a water conservation plan under Water Code § 11.1271 or a drought contingency plan under Water Code § 11.1272.

Chapter 16, Subchapter I (§§ 16.311 - 16.324)
In order to minimize losses from flood damage, counties, with the aid and coordination of the Texas Water Development Board and the Texas Department of Insurance, are authorized to take all necessary and reasonable actions that are not less stringent than the requirements and criteria of the National Flood Insurance Program to restrict development of land and set standards regarding construction in flood plains. This can include adopting orders necessary for the county to be eligible to participate in the National Flood Insurance Program and collecting reasonable fees to cover the cost of administering its local floodplain management program.

§ 16.343(g)
Before a county can receive funds under either Section 15.407, Subchapter P, Chapter 15, or Subchapter K, Chapter 17 of the Water Code, the county must adopt and enforce the model rules of this section.

§ 26.0135(a)
A county may enter into a contract or cooperative agreement with the Texas Commission on Environmental Quality to conduct monitoring and assessments of watersheds where a river authority is unable to perform those duties.
Water Code (cont.)

§ 26.171
A county may inspect public waters to determine whether the water quality meets state standards and whether persons who are making discharges into the water have a permit and are in compliance with the permit.

§ 26.175
A county may enter into a cooperative agreement with the Texas Commission of Environmental Quality or other local governments for water quality management.
County Subdivision Regulation Sourcebook

Additional Editor's Notes

a. Editor's Note on Groundwater Availability
A Note on Groundwater Availability and the Platting Process

As our state continues to grow, the amount water available to support the expanding needs of municipal, industrial, and agricultural interest remains relatively constant. Most of the sites for surface water reservoirs have been developed; the approval and construction of additional reservoirs can take decades to complete. Regulatory and environmental hurdles add to the time and money required for this type of water resource development, making it less attractive. The same hurdles do not exist regarding groundwater; groundwater conservation districts can restrict, but not prevent, groundwater pumping and export. Absent a groundwater conservation district, the rule of capture applies, giving each landowner the right to capture as much groundwater as he or she can.

Over half of the water used in this state comes from groundwater. This can result in groundwater resources becoming over-taxed. Some parts of the state rely heavily on aquifers with negligible recharge rates; water users in these areas are essentially conducting mining operations. Other parts of the state with more easily recharged aquifers are experiencing explosive growth and this increased demand can threaten to exceed recharge rates.

In recent years, citizens and local officials have raised these concerns that growth in certain parts of the state could well be outstripping the groundwater supply. In partial response to these concerns, the 76th Legislature (1999) passed Senate Bill 1323. This bill added Section 232.0032 to Subchapter A of Chapter 232 of the Local Government Code and allows a commissioners court to require that a person submitting a plat for approval show there is adequate groundwater to support the development, if the source of the water supply for the subdivision is groundwater from under the subdivided land. The commissioners court may require a plat application have attached to it a statement, prepared by either an engineer or a geoscientist licensed to practice in the state, certifying that adequate groundwater is available for the subdivision. The Texas Commission on Environmental Quality (TCEQ) has established the appropriate form and content of the certificate and may be found in Chapter 230, Texas Administrative Code. TCEQ, in consultation with the Texas Water Development Board (TWDB) also requires a person who submits such a plat application to transmit to TWDB and any groundwater conservation district that includes in its boundaries any part of the subdivision, information that would be useful in performing the groundwater district’s activities, conducting regional water planning, maintaining the state’s groundwater database, or conducting studies for the state related to groundwater.

These rules may be viewed and downloaded at http://www.tceq.state.tx.us/nav/rules/rules_rulemaking.html.

A Note on Groundwater Availability and the Platting Process

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Requiring developers to show the presence of adequate groundwater for a subdivision certainly had a precedent. The 75th Legislature’s (1997) Senate Bill 1, the State Water Plan, provided commissioners courts in counties within priority groundwater management areas (PGMA) broad authority to adopt water availability requirements as part of the platting process. Such a commissioners court may do so if the court determines that such steps are necessary to prevent current or projected water use from exceeding the safe sustainable yield of the county’s groundwater supply (See Section 35.019, Water Code).

Requiring developers to show the presence of adequate groundwater for a subdivision certainly had a precedent. The 75th Legislature’s (1997) Senate Bill 1, the State Water Plan, provided commissioners courts in counties within priority groundwater management areas (PGMA) broad authority to adopt water availability requirements as part of the platting process. Such a commissioners court may do so if the court determines that such steps are necessary to prevent current or projected water use from exceeding the safe sustainable yield of the county’s groundwater supply (See Section 35.019, Water Code).
The rules governing Senate Bill 1323 do not replace any state or federal requirements for public drinking water supply systems, nor do they supersede the authority granted to PGMA counties under Section 35.019, Water Code, or the authority accorded groundwater conservation districts by Chapter 36, Water Code. The statute is permissive, but if a county chooses to require the certification of groundwater availability, the county must use TCEQ’s certificate and rules.
Editor’s Note: County Subdivision Regulations and the Private Real Property Rights Preservation Act

In September of 1995, the Private Real Property Rights Preservation Act, Chapter 2007, Government Code, became effective as law in Texas. Among other things, the law requires state agencies and some other governmental bodies, including counties, to perform “takings impact assessments” (TIAs) prior to ordering regulations affecting real property to determine if the regulations would create a “taking” as particularly defined under the statute. Through a provision in the law pertaining to counties, county actions did not become subject to the law’s provisions until September 1, 1997 (see Sec. 2007.003(d), Government Code).

The Private Real Property Rights Preservation Act is a somewhat complicated law and it is recommended a commissioners court seek proper legal counsel to determine how the scope of this law may affect the adoption of subdivision regulations and the actual regulation of subdivisions, as necessary. Included in this sourcebook is the entire text of Chapter 2007, Government Code, and a copy of an on-line publication from the Office of the Attorney General, Private Real Property Rights Preservation Act Guidelines. This publication may also be viewed on-line at http://www.oag.state.tx.us/AG_Publications/txts/propertyguide2005.shtml.

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§ 2007.001. Short Title

This chapter may be cited as the Private Real Property Rights Preservation Act.


§ 2007.002. Definitions

In this chapter:

(1) "Governmental entity" means:

(A) a board, commission, council, department, or other agency in the executive branch of state government that is created by constitution or statute, including an institution of higher education as defined by Section 61.003, Education Code; or

(B) a political subdivision of this state.

(2) "Owner" means a person with legal or equitable title to affected private real property at the time a taking occurs.

(3) "Market value" means the price a willing buyer would pay a willing seller after considering all factors in the marketplace that influence the price of private real property.

(4) "Private real property" means an interest in real property recognized by common law, including a groundwater or surface water right of any kind, that is not owned by the federal government, this state, or a political subdivision of this state.

(5) "Taking" means:

(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or

(B) a governmental action that:

(i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE

CHAPTER 2007. GOVERNMENTAL ACTION AFFECTING PRIVATE PROPERTY RIGHTS

SUBCHAPTER A. GENERAL PROVISIONS

§ 2007.001. Short Title

This chapter may be cited as the Private Real Property Rights Preservation Act.


§ 2007.002. Definitions

In this chapter:

(1) "Governmental entity" means:

(A) a board, commission, council, department, or other agency in the executive branch of state government that is created by constitution or statute, including an institution of higher education as defined by Section 61.003, Education Code; or

(B) a political subdivision of this state.

(2) "Owner" means a person with legal or equitable title to affected private real property at the time a taking occurs.

(3) "Market value" means the price a willing buyer would pay a willing seller after considering all factors in the marketplace that influence the price of private real property.

(4) "Private real property" means an interest in real property recognized by common law, including a groundwater or surface water right of any kind, that is not owned by the federal government, this state, or a political subdivision of this state.

(5) "Taking" means:

(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or

(B) a governmental action that:

(i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and
(ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.


§ 2007.003. Application

(a) This chapter applies only to the following governmental actions:

(1) the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure;

(2) an action that imposes a physical invasion or requires a dedication or exaction of private real property;

(3) an action by a municipality that has effect in the extraterritorial jurisdiction of the municipality, excluding annexation, and that enacts or enforces an ordinance, rule, regulation, or plan that does not impose identical requirements or restrictions in the entire extraterritorial jurisdiction of the municipality; and

(4) enforcement of a governmental action listed in Subdivisions (1) through (3), whether the enforcement of the governmental action is accomplished through the use of permitting, citations, orders, judicial or quasi-judicial proceedings, or other similar means.

(b) This chapter does not apply to the following governmental actions:

(1) an action by a municipality except as provided by Subsection (a)(3);

(2) a lawful forfeiture or seizure of contraband as defined by Article 59.01, Code of Criminal Procedure;

(3) a lawful seizure of property as evidence of a crime or violation of law;

(4) an action, including an action of a political subdivision, that is reasonably taken to fulfill an obligation mandated by federal law or an action of a political subdivision that is reasonably taken to fulfill an obligation mandated by state law;

(5) the discontinuance or modification of a program or regulation that provides a unilateral expectation that does not rise to the level of a recognized interest in private real property;

(6) an action taken to prohibit or restrict a condition or use of private real property if the governmental entity proves that the condition or use constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state;

(7) an action taken out of a reasonable good faith belief that the action is necessary to prevent a grave and immediate threat to life or property;
(8) a formal exercise of the power of eminent domain;

(9) an action taken under a state mandate to prevent waste of oil and gas, protect correlative rights of owners of interests in oil or gas, or prevent pollution related to oil and gas activities;

(10) a rule or proclamation adopted for the purpose of regulating water safety, hunting, fishing, or control of nonindigenous or exotic aquatic resources;

(11) an action taken by a political subdivision:

(A) to regulate construction in an area designated under law as a floodplain;

(B) to regulate on-site sewage facilities;

(C) under the political subdivisions's statutory authority to prevent waste or protect rights of owners of interest in groundwater; or

(D) to prevent subsidence;

(12) the appraisal of property for purposes of ad valorem taxation;

(13) an action that:

(A) is taken in response to a real and substantial threat to public health and safety;

(B) is designed to significantly advance the health and safety purpose; and

(C) does not impose a greater burden than is necessary to achieve the health and safety purpose; or

(14) an action or rulemaking undertaken by the Public Utility Commission of Texas to order or require the location or placement of telecommunications equipment owned by another party on the premises of a certificated local exchange company.

(c) Sections 2007.021 and 2007.022 do not apply to the enforcement or implementation of a statute, ordinance, order, rule, regulation, requirement, resolution, policy, guideline, or similar measure that was in effect September 1, 1995, and that prevents the pollution of a reservoir or an aquifer designated as a sole source aquifer under the federal Safe Drinking Water Act (42 U.S.C. Section 300h-8(e)).

(d) This chapter applies to a governmental action taken by a county only if the action is taken on or after September 1, 1997.
§ 2007.04. Waiver of Governmental Immunity; Permission to Sue

(a) Sovereign immunity to suit and liability is waived and abolished to the extent of liability created by this chapter.

(b) This section does not authorize a person to execute a judgment against property of the state or a governmental entity.


§ 2007.05. Alternative Dispute Resolution

Chapter 154, Civil Practice and Remedies Code, applies to a suit filed under this chapter.


§ 2007.06. Cumulative Remedies

(a) The provisions of this chapter are not exclusive. The remedies provided by this chapter are in addition to other procedures or remedies provided by law.

(b) A person may not recover under this chapter and also recover under another law or in an action at common law for the same economic loss.


§ 2007.021. Suit Against Political Subdivision

(a) A private real property owner may bring suit under this subchapter to determine whether the governmental action of a political subdivision results in a taking under this chapter. A suit under this subchapter must be filed in a district court in the county in which the private real property owner’s affected property is located. If the affected private real property is located in more than one county, the private real property owner may file suit in any county in which the affected property is located.
§ 2007.022. Administrative Proceeding Against State Agency

(a) A private real property owner may file a contested case with a state agency to determine whether a governmental action of the state agency results in a taking under this chapter.

(b) A contested case must be filed with the agency not later than the 180th day after the date the private real property owner knew or should have known that the governmental action restricted or limited the owner’s right in the private real property.

(c) A contested case filed under this section is subject to Chapter 2001 except to the extent of a conflict with this subchapter.


§ 2007.023. Entitlement to Invalidation of Governmental Action

(a) Whether a governmental action results in a taking is a question of fact.

(b) If the trier of fact in a suit or contested case filed under this subchapter finds that the governmental action is a taking under this chapter, the private real property owner is only entitled to, and the governmental entity is only liable for, invalidation of the governmental action or the part of the governmental action resulting in the taking.


§ 2007.024. Judgment or Final Decision or Order

(a) The court’s judgment in favor of a private real property owner under Section 2007.021 or a final decision or order issued under Section 2007.022 that determines that a taking has occurred shall order the governmental entity to rescind the governmental action, or the part of the governmental action resulting in the taking, as applied to the private real property owner not later than the 30th day after the date the judgment is rendered or the decision or order is issued.

(b) The judgment or final decision or order shall include a fact finding that determines the monetary damages suffered by the private real property owner as a result of the taking. The amount of damages is determined from the date of the taking.

(c) A governmental entity may elect to pay the damages as compensation to the private real property owner who prevails in a suit or contested case filed under this subchapter. Sovereign immunity to liability is waived to the extent the governmental entity elects to pay compensation under this subsection.

(b) A suit under this subchapter must be filed not later than the 180th day after the date the private real property owner knew or should have known that the governmental action restricted or limited the owner’s right in the private real property.


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(b) The judgment or final decision or order shall include a fact finding that determines the monetary damages suffered by the private real property owner as a result of the taking. The amount of damages is determined from the date of the taking.

(c) A governmental entity may elect to pay the damages as compensation to the private real property owner who prevails in a suit or contested case filed under this subchapter. Sovereign immunity to liability is waived to the extent the governmental entity elects to pay compensation under this subsection.
(d) If a governmental entity elects to pay compensation to the private real property owner:

(1) the court that rendered the judgment in the suit or the state agency that issued the final order or decision in the case shall withdraw the part of the judgment or final decision or order rescinding the governmental action; and

(2) the governmental entity shall pay to the owner the damages as determined in the judgment or final order not later than the 30th day after the date the judgment is rendered or the final decision or order is issued.

(e) If the governmental entity does not pay compensation to the private real property owner as provided by Subsection (d), the court or the state agency shall reinstate the part of the judgment or final decision or order previously withdrawn.

(f) A state agency that elects to pay compensation to the private real property owner shall pay the compensation from funds appropriated to the agency.


§ 2007.025. Appeal

(a) A person aggrieved by a judgment rendered in a suit filed under Section 2007.021 may appeal as provided by law.

(b) A person who has exhausted all administrative remedies available within the state agency and is aggrieved by a final decision or order in a contested case filed under Section 2007.022 is entitled to judicial review under Chapter 2001. Review by a court under this subsection is by trial de novo.

(c) If a private real property owner prevails in a suit or contested case filed under this subchapter and the governmental entity appeals, the court or the state agency shall enjoin the governmental entity from invoking the governmental action or the part of the governmental action resulting in the taking, pending the appeal of the suit or contested case.


§ 2007.026. Fees and Costs

(a) The court or the state agency shall award a private real property owner who prevails in a suit or contested case filed under this subchapter reasonable and necessary attorney’s fees and court costs.

(b) The court or the state agency shall award a governmental entity that prevails in a suit or contested case filed under this subchapter reasonable and necessary attorney’s fees and court costs.

§ 2007.041. Guidelines

(a) The attorney general shall prepare guidelines to assist governmental entities in identifying and evaluating those governmental actions described in Section 2007.003(a)(1) through (3) that may result in a taking.

(b) The attorney general shall file the guidelines with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002.

(c) The attorney general shall review the guidelines at least annually and revise the guidelines as necessary to ensure consistency with the actions of the legislature and the decisions of the United States Supreme Court and the supreme court of this state.

(d) A person may make comments or suggestions or provide information to the attorney general concerning the guidelines. The attorney general shall consider the comments, suggestions, and information in the annual review process required by this section.

(e) Material provided to the attorney general under Subsection (d) is public information.


§ 2007.042. Public Notice

(a) A political subdivision that proposes to engage in a governmental action described in Section 2007.003(a)(1) through (3) that may result in a taking shall provide at least 30 days’ notice of its intent to engage in the proposed action by providing a reasonably specific description of the proposed action in a notice published in a newspaper of general circulation published in the county in which affected private real property is located. If a newspaper of general circulation is not published in that county, the political subdivision shall publish a notice in a newspaper of general circulation located in a county adjacent to the county in which affected private real property is located. The political subdivision shall, at a minimum, include in the notice a reasonably specific summary of the takings impact assessment that was prepared as required by this subchapter and the name of the official of the political subdivision from whom a copy of the full assessment may be obtained.

(b) A state agency that proposes to engage in a governmental action described in Section 2007.003(a)(1) or (2) that may result in a taking shall:

(1) provide notice in the manner prescribed by Section 2001.023; and

(2) file with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002 a reasonably specific summary of the takings impact assessment that was prepared by the agency as required by this subchapter.


§ 2007.043. Takings Impact Assessment

(a) A governmental entity shall prepare a written takings impact assessment of a proposed governmental action described in Section 2007.003(a)(1) through (3) that complies with the evaluation guidelines developed by the attorney general under Section 2007.041 before the governmental entity provides the public notice required under Section 2007.042.

(b) The takings impact assessment must:

(1) describe the specific purpose of the proposed action and identify:

(A) whether and how the proposed action substantially advances its stated purpose; and

(B) the burdens imposed on private real property and the benefits to society resulting from the proposed use of private real property;

(2) determine whether engaging in the proposed governmental action will constitute a taking; and

(3) describe reasonable alternative actions that could accomplish the specified purpose and compare, evaluate, and explain:

(A) how an alternative action would further the specified purpose; and

(B) whether an alternative action would constitute a taking.

(c) A takings impact assessment prepared under this section is public information.


§ 2007.044. Suit to Invalidate Governmental Action

(a) A governmental action requiring a takings impact assessment is void if an assessment is not prepared. A private real property owner affected by a governmental action taken without the preparation of a takings impact assessment as required by this subchapter may bring suit for a declaration of the invalidity of the governmental action.

(b) A suit under this section must be filed in a district court in the county in which the private real property owner’s affected property is located. If the affected property is located in more than one county, the private real property owner may file suit in any county in which the affected property is located.

(c) The court shall award a private real property owner who prevails in a suit under this section reasonable and necessary attorney’s fees and court costs.

§ 2007.045. Updating of Certain Assessments Required

A state agency that proposes to adopt a governmental action described in Section 2007.003(a)(1) or (2) that may result in a taking as indicated by the takings impact assessment shall update the assessment if the action is not adopted before the 180th day after the date the notice is given as required by Section 2001.023.

§1.0 GENERAL DESCRIPTION OF THE LEGISLATION; DEFINITION OF "TAKING."

§1.1. PURPOSE OF GUIDELINES.

§1.11. The Private Real Property Rights Preservation Act (Act or PRPRPA) represents a basic charter for the protection of private real property rights in Texas. The Act represents the Texas legislature's acknowledgment of the importance of protecting private real property interests. PRPRPA's purpose is to ensure that certain governmental entities take a "hard look" at their actions on private real property rights, and that those entities act according to the letter and spirit of the Act. PRPRPA is, in short, another instrument to ensure open and responsible government.

§1.12. Section 2007.041 requires the attorney general to:

(a) prepare guidelines to assist governmental entities in identifying and evaluating those governmental actions described in §2007.003(a)(1)-(3) [of the Act] that may result in a taking;

(b) file the guidelines with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002 of the Government Code; and

(c) review the guidelines at least annually and revise the guidelines as necessary to ensure consistency with the actions of the legislature and the decisions of the United States Supreme Court and the supreme court of this state.

§1.13. Governmental actions undertaken pursuant to these Guidelines that compel the need to promulgate "Takings Impact Assessments" (TIAs) must ensure that information regarding the private real property implications of governmental actions are considered before decisions are made and actions taken. This information and analysis must be accurate, concise, and of high quality. TIAs must concentrate on the truly significant real property issues. No need exists to amass needless detail and meaningless data. The public is entitled to governmental conformance with legislative will, not a mass of unnecessary paperwork. Nevertheless, the public is entitled to more than mere pro forma analyses by the governmental entities covered by the Act. TIAs shall serve as the means of assessing the impact on private real property, rather than justifying decisions already made.

§1.14. The failure of a governmental entity to promulgate a TIA when one is required will subject the governmental entity to a lawsuit to invalidate the governmental action.

§1.15. CAVEAT. These Guidelines do not represent a formal Attorney General's opinion and should not be construed as an opinion of the Attorney General as to whether a specific governmental action constitutes a "taking." The Act raises complex and difficult issues in emerging areas of law, public policy, and government. These Guidelines are intended to provide guidance as governmental entities seek to conform their activities to the Act's requirements.

§1.2 DEFINITION OF "TAKING."

§1.2. DEFINITION OF "TAKING."
(a) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or

(b) a governmental action that:

1. affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and
2. is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is in effect and the market value of the property determined as if the governmental action was not in effect.

§1.22 The Act, §2007.002(5), defines “taking” as follows:

(a) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or

(b) a governmental action that:

1. affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and
2. is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is in effect and the market value of the property determined as if the governmental action was not in effect.

§1.23 The Act, §2007.002, thus sets forth a definition of “taking” that (i) incorporates current jurisprudence on “takings” under the United States and Texas Constitutions, and (ii) sets forth a new statutory definition of “taking.”

(a) The Fifth Amendment to the United States Constitution (the “Takings Clause”) provides: “No person’s property shall be taken, damaged or destroyed without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money[.]” Essentially, if a governmental entity takes some “action” covered by the Act and that action results in a devaluation of a person’s private real property of 25% or more, then the affected party may seek appropriate relief under the Act. Such an action for relief would be predicated on the assumption that the affected real property was the subject of the governmental action.

(b) Article I, §17 of the Texas State Constitution provides as follows:

No person's property shall be taken, damaged or destroyed without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money[.]”

(c) The Act, §2007.002(5)(B), sets forth a new statutory definition of “taking.” Essentially, if a governmental entity takes some “action” covered by the Act and that action results in a devaluation of a person’s private real property of 25% or more, then the affected party may seek appropriate relief under the Act. Such an action for relief would be predicated on the assumption that the affected real property was the subject of the governmental action.

1.3. “REGULATORY TAKINGS” OR “INVERSE CONDEMNATION”: GENERAL PRINCIPLES.

1.31. While there is usually little question that there is a “taking” when the government physically seizes or occupies private real property, there may be uncertainty as to whether a “taking” occurs when the government regulates private real property or activities occurring on private real property, or when the government undertakes some physically non-intrusive action which may have an impact on real property rights. These Guidelines pertain, for the most part, to the non-physical invasion and non-occupancy situations.
§1.32. The Takings Clause "does not bar government from interfering with property rights, but rather requires compensation in the event of otherwise proper interference amounting to a taking." Regulatory or governmental actions are sometimes difficult to evaluate for "takings" because government may properly regulate or limit the use of private real property, relying on its "police power" authority and responsibility to protect the public health, safety, and welfare of its citizens. Accordingly, government may abate public nuisances, terminate illegal activities, and establish building codes, safety standards, or sanitary requirements generally without creating a compensatory "taking." The government may also limit the use of real property through land use planning, zoning ordinances, setback requirements, and environmental regulations.

§1.33. Governmental actions taken specifically for the purposes of protecting public health and safety may be given a broader latitude by courts before they are found to be "takings." However, the mere assertion of a public health and safety purpose should be viewed as insufficient to avoid a taking determination. Actions which are asserted to be for the protection of public health and safety should be undertaken only in response to real and substantial threats to public health and safety, be designed to advance significantly the health and safety purpose, and should impose no greater burden than is necessary to achieve the health and safety purpose. Otherwise, the exemptions or exceptions for these actions may swallow the rule set forth by the Act to protect private real property.

§1.41. A governmental action may result in the "taking" of private real property requiring the payment of compensation if it denies an owner economically viable use of his land. Deprivation of economic viability may occur through the denial of development permits, as well as through the application of ordinances or state laws. A plaintiff seeking to challenge a government regulation as an uncompensated taking of private property may proceed . . . by alleging a "physical" taking, a Lucas-type "total regulatory taking," a Penn Central taking, or a land-use exaction violating the standards set forth in Nollan and Dolan. Prior to 2005, the perception existed that a regulation that did not "substantially advance legitimate state interests" could result in a taking. In Lingle, however, the Supreme Court rejected that argument and concluded that the "substantially advances" test no longer has a place in takings jurisprudence, and observed that "an inquiry of this nature has some logic in the context of a due process challenge, for a regulation that fails to serve any legitimate governmental objective may be so arbitrary or irrational that it runs afoul of the Due Process Clause." Governmental actions requiring exactions of property must meet the "rough proportionality test." This test requires a governmental entity to make "some sort of individualized determination that the required dedication is related both in nature and extent to the project's anticipated impact, though a precise mathematical calculation is not required.

(a) A proper regulatory taking analysis considers the economic impact of the regulation, in particular whether the proposed governmental action interferes with a real property owner's reasonable investment-backed development expectations. For instance, in determining whether a "taking" has occurred, a court, among other things, might weigh the governmental action's impact on vested development rights against the government's interest in taking the action. Defining reasonable investment-backed expectations is a
§1.43 State Law

complex, fact-intensive undertaking. In Reahard v. Lee County,¹⁹ the Eleventh Circuit of the United States Court of Appeals set forth the following set of eight essentially factual issues to be considered in determining whether a private real property owner's "investment-backed development expectations" have been negatively impacted and thus a regulatory taking effected:

1. History of the property. (when purchased? how much land purchased? where was the land located? nature of title? composition of the land? how was the land initially used?);
3. History of zoning and regulation. (how and when was the land classified? how was use proscribed? changes in zoning classification?);
4. How did development change when title passed;
5. Present nature and extent of the property;
6. Owner's reasonable expectations under state common law;
7. Neighboring landowners' reasonable expectations under state common law; and
8. Diminution of owner's investment-backed expectations, if any, after passage of the regulation or the undertaking of a governmental action.

(b) If a governmental action prohibits all economically viable or beneficial uses of real property, a "taking" occurs, unless the governmental entity can demonstrate that laws of nuisance or other pre-existing limitations on the use of the real property prohibit the proposed uses, or unless the governmental entity can show that there is no interest at stake protected or defined by common law. The United States Supreme Court has acknowledged that it has never clarified the "property interest against which the loss of value is to be measured, but has suggested that a real property owner's "investment-backed development expectations" as shaped by state property law may provide the answer.¹⁸

(c) In 2002, the United States Supreme Court held that temporary development moratoria are not per se takings of property under the Takings Clause. The Court reasoned that "the answer to the abstract question whether a temporary moratorium effects a taking is neither 'yes, always' nor 'no, never'; the answer depends upon the particular circumstances of the case."¹⁸

§1.43 State Law

(a) The governmental entity must consider whether there is a taking under state constitutional law (commonly referred to as inverse condemnation). In the non-physical intrusion cases, Texas courts, on a case-by-case basis, have employed several general tests to determine whether a compensable governmental taking has occurred under the provisions of the Texas Constitution, such as:

1. whether the governmental entity has imposed a burden on private real property which creates a disproportionate diminution in economic value or renders the property wholly useless,
2. whether the governmental action against the owner's real property interest is for its own advantage,"²³ or
3. History of zoning and regulation. (how and when was the land classified? how was use proscribed? changes in zoning classification?);
4. How did development change when title passed;
5. Present nature and extent of the property;
6. Owner's reasonable expectations under state common law;
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§2.11. GOVERNMENTAL ACTIONS COVERED.

§2.0. APPLICABILITY OF THE ACT.

however, limits the application of the new definition. (15)

more reduction in the value of private real property affected by the governmental action. Section 2007.02(5)(B), provides that a "taking" occurs when a governmental action covered by the Act is a producing cause of a 25% or more reduction in the value of private real property affected by the governmental action. Section 2007.02(5)(B), however, limits the application of the new definition. (15)

§2.1. GOVERNMENTAL ACTIONS COVERED.

§2.12. The following actions, furthermore, are exempted from coverage of the Act under §2007.003(b):

(a) Section 2007.003(a) provides that the Act applies only to the following governmental actions:

(1) the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure;

(2) an action that imposes a physical invasion or requires a dedication or exaction of private real property;

(3) an action by a municipality that has effect in the extraterritorial jurisdiction of the municipality, excluding annexation, and that enacts or enforces an ordinance, rule, regulation, or plan that does not impose identical requirements or restrictions in the entire extraterritorial jurisdiction of the municipality; and

(4) enforcement of a governmental action listed in Subdivisions (1)-(3), whether the enforcement of the governmental action is accomplished through the use of permitting, citations, orders, judicial or quasi-judicial proceedings, or other similar means.

(b) The requirement to do a TIA only applies to §2007.003(a)(1)-(3). (27)

§2.12. The following actions, furthermore, are exempted from coverage of the Act under §2007.003(b):

(a) an action by a municipality except as provided by subsection (a)(3);

(b) a lawful forfeiture or seizure of contraband as defined by Article 59.01, Code of Criminal Procedure;

(c) a lawful seizure of property as evidence of a crime or violation of law;

(d) an action, including an action of a political subdivision, that is reasonably taken to fulfill an obligation mandated by federal law or an action of a political subdivision that is reasonably taken to fulfill an obligation mandated by state law.

(b) In City of College Station v. Turtle Rock Corporation, the Texas Supreme Court held that there must be a reasonable connection between an exaction and the need for the property by the government. The court recognized that in order to be a compensable taking, the ordinance must render the entire property "wholly useless" or otherwise cause "total destruction" of the entire tract's economic value. Furthermore, the landowner must show that the ordinance is unreasonable or arbitrary in that particular application. (14)

§1.5. REGULATORY TAKINGS ANALYSIS: NEW STATUTORY FORMULATION.

§1.51. PRPRPA creates a new definition of taking, in addition to judicially-determined takings. The Act, §2007.002(5), provides that a "taking" occurs when a governmental action covered by the Act is a producing cause of a 25% or more reduction in the value of private real property affected by the governmental action. Section 2007.02(5)(B), however, limits the application of the new definition. (15)

§2.0. APPLICABILITY OF THE ACT.

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(3) an action by a municipality that has effect in the extraterritorial jurisdiction of the municipality, excluding annexation, and that enacts or enforces an ordinance, rule, regulation, or plan that does not impose identical requirements or restrictions in the entire extraterritorial jurisdiction of the municipality; and

(4) enforcement of a governmental action listed in Subdivisions (1)-(3), whether the enforcement of the governmental action is accomplished through the use of permitting, citations, orders, judicial or quasi-judicial proceedings, or other similar means.

(b) The requirement to do a TIA only applies to §2007.003(a)(1)-(3). (27)
(e) the discontinuance or modification of a program or regulation that provides a unilateral expectation that does not rise to the level of a recognized interest in private real property;

(f) an action taken to prohibit or restrict a condition or use of private real property if the governmental entity proves that the condition or use constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state;

(g) an action taken out of a reasonable good faith belief that the action is necessary to prevent a grave and immediate threat to life or property;

(h) a formal exercise of the power of eminent domain;

(i) an action taken under a state mandate to prevent waste of oil and gas, protect correlative rights of owners of interests in oil or gas, or prevent pollution related to oil and gas activities;

(j) a rule or proclamation adopted for the purpose of regulating water safety, hunting, fishing, or control of nonindigenous or exotic aquatic resources;

(k) an action taken by a political subdivision:

(1) to regulate construction in an area designated under law as a floodplain;
(2) to regulate on-site sewage facilities;
(3) under the political subdivision’s statutory authority to prevent waste or protect rights of owners of interest in groundwater; or
(4) to prevent subsidence;

(l) the appraisal of property for purposes of ad valorem taxation;

(m) an action that:

(1) is taken in response to a real and substantial threat to public health and safety; and
(2) does not impose a greater burden than is necessary to achieve the health and safety purpose; or

(n) an action or rulemaking undertaken by the Public Utility Commission of Texas to order or require the location or placement of telecommunications equipment owned by another party on the premises of a certificated local exchange company.

§2.13. According to §2007.003(c) of the Act, §2007.021 ("Suit Against Political Subdivision") and §2007.022 ("Administrative Proceeding Against State Agency") (collectively, "Action To Determine Taking") do not apply to the enforcement or implementation of a statute, ordinance, order, rule, regulation, requirement, resolution, policy, guideline, or similar measure that was in effect September 1, 1995, and that prevents the pollution of a reservoir or an aquifer designated as a sole source aquifer under the federal Safe Drinking Water Act (42 United States Code, §300h-3(e)).

§2.14. Nor does the Act apply to the enforcement or implementation of the Open Beaches Act, Subchapter B, Chapter 61, Natural Resources Code, as it existed on September 1, 1995, or to the enforcement or implementation of any rule or similar measure that was adopted under that subchapter and was in existence on September 1, 1995.26

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§2.15. In order to effectuate the will of the legislature and to ensure that the Act is not read either too broadly or too narrowly, each governmental entity covered by the Act should promulgate a set of procedures ("Governmental Entity-Specific TIA Procedures") specific to the governmental entity that defines which of its activities, programs, or policy, rule, or regulation promulgation activities trigger the need for a TIA. Such promulgation of the Governmental Entity-Specific TIA Procedures should be completed as soon as possible after the publication of these Guidelines. However, the promulgation of these TIA procedures must not delay conformance with the Act or these Guidelines.

§2.16. In promulgating the Governmental Entity-Specific TIA Procedures, the governmental entity should establish (1) "Categorical Determination" categories that indicate that there are no private real property rights affected by certain types of proposed governmental actions, as well as (2) a quick, efficient, and effective mechanism or approach to making "No Private Real Property Impacts Determinations" ("NoPRPI Determinations") associated with the proposed governmental action.

§2.17. Categorical Determinations that no private real property interests are affected by the proposed governmental action would obviate the need for any further compliance with the Act. Without limitations the following are examples of the types of activities that might fall into such a Categorical Determination category: (i) student policies established by state institutions of higher education and (ii) professional qualification requirements for licensed or permitted professionals.

§2.18. NoPRPI Determinations would also obviate the need for any further compliance with the Act once it is determined that there are no private real property interests impacted by a specific governmental action. In such a case, there would be no established Categorical Determination category in which the proposed governmental action fits, but after consideration and preliminary analysis of a specific proposed governmental action, the governmental entity is satisfied that there would be no impacts on private real property interests.

§2.19. Until and unless a covered governmental entity develops Governmental Entity-Specific TIA Procedures, it will have to determine on an ad hoc basis whether any private real property interests are impacted (including to what extent) by its proposed actions. Furthermore, because the TIA necessarily depends on the type of governmental action being proposed and the specific nature of the impacts on specific private real property, the governmental entity promulgating a TIA has discretion (within the parameters of the Act, §2007.043(b)) to determine the precise extent and form of the assessment, on a case-by-case basis.

§3.0. GUIDE TO PROMULGATING TIAS.
§3.1. Requirements for Promulgating TIAs.
The Act, §2007.043(b) requires that the TIA:

(a) describe the specific purpose of the proposed action and identify:
   (1) whether and how the proposed action substantially advances its stated purpose; and
   (2) the burdens imposed on private real property and the benefits to society resulting from the proposed use of private real property;

(b) determine whether engaging in the proposed governmental action will constitute a taking; and

(c) describe reasonable alternative actions that could accomplish the specified purpose and compare, evaluate, and explain:
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(b) determine whether engaging in the proposed governmental action will constitute a taking; and

(c) describe reasonable alternative actions that could accomplish the specified purpose and compare, evaluate, and explain:
   (1) how an alternative action would further the specified purpose; and
§3.2 Guide for Evaluating Proposed Governmental Actions.

Governmental entities covered by the Act should use the following guide in reviewing the potential impact of a proposed governmental action covered by the Act. While this guide may provide a framework for evaluating the impact on private real property a proposed governmental action may have generally, "takings" questions normally arise in the context of specific affected real property. This guide for evaluating governmental actions covered by the Act is another tool that a governmental entity should aggressively use to safeguard private real property owners.

(a) Question 1: Is the Governmental Entity undertaking the proposed action a Governmental Entity covered by the Act, i.e., is it a "Covered Governmental Entity"? See the Act, §2007.002(1).

(1) If the answer to Question 1 is "No": No further compliance with the Act is necessary.

(2) If the answer to Question 1 is "Yes": Go to Question 2.

(b) Question 2. Is the proposed action to be undertaken by the Covered Governmental Entity an action covered by the Act, i.e., a "Covered Governmental Action"? See §2 of these Guidelines; and Governmental Entity-Specific TIA Procedures for "Categorical Determinations" as developed by the respective Covered Governmental Entities.30

(1) If the answer to Question 2 is "No": No further compliance with the Act is necessary.

(2) If the answer to Question 2 is "Yes": Go to Question 3.

(c) Question 3. Does the Covered Governmental Action result in a burden on "Private Real Property" as that term is defined in the Act?

(1) If the answer to Question 3 is "No": A "No Private Real Property Impact" or NoPRPI Determination should be made. No further compliance with the Act is necessary if a NoPRPI Determination is made. Logically, the initial critical issue regarding any proposed governmental action is whether there is any burden on private real property. If a governmental entity has not resolved this issue by reference to its preexisting list of Categorical Determinations, it can do so by quickly and concisely making a NoPRPI Determination.

(2) If the answer to Question 3 is "Yes": A TIA is required and the governmental entity must undertake evaluation of the proposed governmental action on private real property rights.

§3.3 Elements of the TIA As set forth in §3.11 supra, the Act sets forth explicit elements that must be evaluated by the governmental entity proposing to undertake a governmental action covered by the Act.

(a) Question 4. What is the Specific Purpose of the Proposed Covered Governmental Action? The TIA must clearly show how the proposed governmental action furthers its stated purpose. Thus, it is important that a governmental entity clearly state the purpose of its proposed action in the first place, and whether and how the proposed action substantially advances its stated purpose.

(b) Question 5. How Does the Proposed Covered Governmental Action Burden Private Real Property?31

(c) Question 6. How Does the Proposed Covered Governmental Action Benefit Society?

(d) A takings impact assessment prepared under this section is public information.

§3.2 Guide for Evaluating Proposed Governmental Actions.

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(2) If the answer to Question 3 is "Yes": A TIA is required and the governmental entity must undertake evaluation of the proposed governmental action on private real property rights.
(d) Question 7. Does the Proposed Covered Governmental Action result in a “taking”? Whether a Proposed Covered Governmental Action “burdens,” in the first analysis, and ultimately results in a “taking” must be measured against all three prongs of the “takeings” analysis outlined in secs.1.2-1.5 of these Guidelines. The Covered Governmental Entity proposing to engage in a Covered Governmental Action should consider the following subquestions:

(1) Does the Proposed Covered Governmental Action Result Indirectly or Directly in a Permanent or Temporary Physical Occupation of Private Real Property?

Regulation or action resulting in a permanent or temporary physical occupation of all or a portion of private real property will generally constitute a “taking.” For example, a regulation that required landlords to allow the installation of cable television boxes in their apartments was found to constitute a “taking.”

(2) Does the Proposed Covered Governmental Action Require a Property Owner to Dedicate a Portion of Private Real Property or to Grant an Easement?

Carefully review all governmental actions requiring the dedication of property or grant of an easement. The dedication of real property must be reasonably and specifically designed to prevent or compensate for adverse impacts of the proposed development. Likewise, the magnitude of the burden placed on the proposed development should be reasonably related to the adverse impacts created by the development. A court will also consider whether the action in question substantially advances a legitimate state interest.

For example, the United States Supreme Court determined in Nollan that compelling an owner of waterfront property to grant a public easement across his property that does not substantially advance the public’s interest in beach access, constitutes a “taking.” Likewise, the Court held that compelling a property owner to leave a public green way, as opposed to a private one, did not substantially advance protection of a floodplain, and was a “taking.”

(3) Does the Proposed Covered Governmental Action Deprive the Owner of all Economically Viable Uses of the Property?

If a governmental action prohibits or somehow denies all economically viable or beneficial uses of the land, it will likely constitute a “taking.” In this situation, however, the governmental entity should consider whether it can demonstrate that the proposed uses are prohibited by the laws of nuisance or other preexisting limitations on the use of the property.

It may be important to analyze the action’s impact on the property as a whole, and not just the impact on a portion of the property. It is also important to assess whether there is any profitable use of the remaining property available. The remaining use does not necessarily have to be the owner’s planned use, a prior use, or the highest and best use of the property. One factor in this assessment is the degree to which the governmental action interferes with a property owner’s reasonable investment-backed development expectations.

Carefully review governmental actions requiring that all of a particular parcel of land be left substantially in its natural state. A prohibition of all economically viable uses of the property is...
vulnerable to a "takings" challenge. In some situations, however, there may be pre-existing limitations on the use of property that could insulate the government from takings liability.

(4) Does the Proposed Covered Governmental Action have a Significant Impact on the Landowner’s Economic Interest?

Carefully review governmental actions that have a significant impact on the owner’s economic interest. Courts will often compare the value of property before and after the impact of the challenged action. Although a reduction in property value alone may not be a "taking," a severe reduction in property value often indicates a reduction or elimination of reasonably profitable uses. Another economic factor courts will consider is the degree to which the challenged action impacts any development rights of the owner.


(6) Does the Proposed Covered Governmental Action Deny a Fundamental Attribute of Ownership?

Governmental actions that deny the landowner a fundamental attribute of ownership—including the right to possess, exclude others and dispose of all or a portion of the property—are potential takings. The United States Supreme Court has held that requiring a public easement for recreational purposes where the harm to be prevented was to the flood plain was a "taking." In finding this to be a "taking," the Court stated:

"The city never demonstrated why a public green way, as opposed to a private one, was required in the interest of flood control. The difference to the petitioner, of course, is the loss of her ability to exclude others. . . [T]his right to exclude others is "one of the most essential sticks in the bundle of rights that are commonly characterized as property." 37

The United States Supreme Court has also held that barring the inheritance (an essential attribute of ownership) of certain interests in land held by individual members of an Indian tribe constituted a "taking." 38

(e) Question 8. What are the Alternatives to the Proposed Covered Governmental Action?

Lastly, the governmental entity must describe reasonable alternative actions to the proposed governmental action that could accomplish the specified purpose and compare and evaluate the alternatives. The governmental agency must also evaluate the "takings" implication of each reasonable alternative to the proposed action pursuant to the applicable provisions of these Guidelines.
1. Private real property is defined in the Act, §2007.002(4), to mean an interest in property recognized by common law:

"Private real property" means an interest in real property recognized by common law, including a groundwater or surface water right of any kind, that is not owned by the federal government, this state, or a political subdivision of this state.

2. Furthermore, the Act may reflect a developing, broader appreciation of the importance of private property rights. See Dolan v. City of Tigard, 512 U.S. 374 (1994):

We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or Fourth Amendment, should be relegated to the status of a poor relation in these comparable circumstances.

3. The Act, §2007.002 (1) defines "governmental entity" as:

(A) a board, commission, council, department, or other agency in the executive branch of state government that is created by constitution or statute, including an institution of higher education as defined by Education Code, §61.003; or

(B) a political subdivision of this state.

4. The Act, 2007.043(a) provides:

A governmental entity shall prepare a written takings impact assessment of a proposed governmental action described in §2007.003(a)(1)-(3) that complies with the evaluation guidelines developed by the attorney general under §2007.041 before the governmental entity provides the public notice required under §2007.042.

Section 2007.042 provides:

(a) A political subdivision that proposes to engage in a governmental action described in §2007.003(a)(1)-(3) that may result in a taking shall provide at least 30 days’ notice of its intent to engage in the proposed action by providing a reasonably specific description of the proposed action in a notice published in a newspaper of general circulation published in the county in which affected private real property is located. If a newspaper of general circulation is not published in that county, the political subdivision shall publish a notice in a newspaper of general circulation located in a county adjacent to the county in which affected private real property is located. The political subdivision shall, at a minimum, include in the notice a reasonably specific summary of the takings impact assessment that was prepared as required by this subchapter and the name of the official of the political subdivision from whom a copy of the full assessment may be obtained.

(b) A state agency that proposes to engage in a governmental action described in §2007.003(a)(1) or (2) that may result in a taking shall:

(1) provide notice in the manner prescribed by §2001.023; and

(2) file with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002 a reasonably specific summary of the takings impact assessment that was prepared by the agency as required by this subchapter.

5. The Act, §2007.044 provides:

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(2) file with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002 a reasonably specific summary of the takings impact assessment that was prepared by the agency as required by this subchapter.

5. The Act, §2007.044 provides:
A governmental action requiring a takings impact assessment is void if an assessment is not prepared. A private real property owner affected by a governmental action taken without the preparation of a takings impact assessment as required by this subchapter may bring suit for a declaration of the invalidity of the governmental action.

A suit under this section must be filed in a district court in the county in which the private real property owner's affected property is located. If the affected property is located in more than one county, the private real property owner may file suit in any county in which the affected property is located.

The court shall award a private real property owner who prevails in a suit under this section reasonable and necessary attorney's fees and court costs.

6. A "producing cause" is an "efficient, exciting, or contributing cause, which in the natural sequence, produced injuries of damages complained of, if any." Union Pump Company v. Allbritton, 886 S.W.2d 773, 775 (Texas 1995) (citing Haynes and Boone v. Bowser-Bouldin, Ltd., 896 S.W.2d 179, 182 (Texas 1995)). An element of "producing cause" is causation in fact. Id. Causation-in-fact requires that the defendant's conduct be a substantial factor in bringing about the plaintiff's injuries, and that the injuries would not have occurred without defendant's conduct. Id. (citations omitted); C. J. Doe v. Boys Club of Greater Dallas, 907 S.W.2d 472, 481 (Texas 1995). A "producing cause" need not be foreseeable.


8. The most easily recognized type of "taking" occurs when government physically occupies private property. Clearly, when the government seeks to use private property for a public building, a highway, a utility easement, or some other public purpose, it must compensate the property owner.

Physical invasions of property, as distinguished from physical occupancies, may also give rise to a "taking" where the invasions are of a recurring or substantial nature. Examples of physical invasions include, among others, flooding and water related intrusions and overflight or aviation easement intrusions.

9. Lingle v. Chevron, 544 U.S. ___, 125 S.Ct. 2074, 2084 (2005), quoting First English Evangelical Lutheran Church v. County of Los Angeles, 482 U.S. 304, 315 (1987) (emphasis in original). The Court went on to note that "if a government action is found to be impermissible-for instance because it fails to meet the 'public use requirement or is so arbitrary as to violate due process—that is the end of the inquiry." Id.

10. "The general rule at least is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking." Pennsylvania Coal Company v. Mahon, 260 U.S. 393, 415 (1922).


12. See exemptions (6), (7), and (13) of §2007.003(b) of the Act (set forth infra in §2.12 of these Guidelines).


15. Lingle, 125 S.Ct. at 2087.

16. Lingle, 125 S.Ct. at 2082-2083.

22. City of Austin v. Teague, 570 S.W.2d 389, 393 (Texas 1978).
23. The Texas Supreme Court has held that in order for there to be an inverse condemnation there must be a "direct restriction" on the landowner's use of his property. As used, "direct restriction" is the "actual physical or legal restriction on the property's use such as blocking of access or denial of a permit for development." Westgate Ltd. v. State, 843 S.W.2d 448 (1992). Since the court found that the condemnor's unreasonable delay of condemnation proceedings did not rise to the level of a "direct restriction" on the landowner's use of his property, the landowner therefore could not recover damages in a suit for inverse condemnation. 843 S.W.2d at 452.
24. The court supported its findings with the decisions of two Texas appellate courts. A landowner may not recover in a suit for inverse condemnation even if there is the construction of improvements which would have the ultimate effect of increasing the property's chances of flooding and thus reducing the property's value. 843 S.W.2d at 452 (citing, *Allen v. City of Texas City*, 775 S.W.2d 863, 885 (Tex. App.-Houston [1st Dist.] 1989, writ denied); *Hubler v.City of Corpus Christi*, 564 S.W.2d 816 (Tex. Civ. App.-Corpus Christi 1978, writ ref'd n.r.e.). Moreover, the Westgate court reserved the question of whether a cause of action might exist where there is bad faith on the part of the condemnor.
25. There are limitations to the Act's coverage included in the definition of "taking" in §2007.002(5)(B):
   a. private real property must be affected;
   b. the private real property must be the subject of the governmental action; and
   c. the governmental action must restrict or limit the owner's right to the property that would otherwise exist in the absence of the governmental action.
26. "Extraterritorial jurisdiction" means the unincorporated area, not part of any other city, that is contiguous to the corporate limits of a city. 52 Tex. Jur. 3d Municipalities §85 (1989). The extent of an extraterritorial jurisdiction depends on the population of the city. See id.; see also Texas Local Government Code, §42.021.
27. The Act, Section 2007.041(a).
29. Governmental entities are reminded that Section 2007.003 provides that the Act applies to the following governmental actions:
   (1) the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure.

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   (1) the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure.
30. In 2002, the Texas Supreme Court decided its first case under the Private Real Property Rights Preservation Act. In Bragg v. Edwards Aquifer Authority, 71 S.W. 3d 729, 730-731 (2002) the court concluded that the adoption of well permitting rules by an aquifer authority is excepted from the Act as an action "taken under a political subdivision's statutory authority to prevent waste or protect rights of owners of interest in groundwater." The Court also concluded that "the Authority's proposed actions on the Braggs' permit applications constitute 'enforcement of a governmental action,' to which the TIA requirement does not apply."

31. See discussion of relevant issues under §3.3(d), infra.


34. Dolan, 512 U.S. at 394-396.

35. Lucas, 505 U. S. at 1029-1032.


37. Dolan, 512 U.S. at 393.

Some Special Situations: Colonias and EDAP Counties

a. Editor's Note
b. Text of Ch. 16, Subchapter J and Ch. 17, Subchapter K, Water Code
c. TWDB Model Subdivision Rules
Chapter 232 includes two subchapters which address special situations. The first, Subchapter B, addresses subdivision platting in those counties located within 50 miles of the border, often referred to as colonias counties, and Nueces County. The other, Subchapter C, address subdivision platting in those non-border counties participating in or applying to participate in, the Texas Water Development Board’s Economically Distressed Areas Program (EDAP). Both Subchapter B and C counties must adopt and enforce the Model Subdivision Rules promulgated by the Texas Water Development Board (TWDB).

**Historical Overview**

The term colonias refers to unincorporated settlements along the Texas-Mexico border. These are usually found outside the corporate limits and extra-territorial jurisdiction (ETJ) of municipalities and fall within the primary jurisdiction of the county. Colonias often lack basic infrastructure, including water and sewer systems, electricity, paved roads, and adequate housing. Their residents generally have very low incomes, often well below the state average. Colonias have long existed along the border, but their numbers have increased significantly since the beginning of the maquiladora program in the early 1960s, designed by the Mexican government to attract manufacturing jobs to the border. International trade agreements, such as the North American Free Trade Agreement, brought even more people to the border region, and the number of colonias increased commensurately. The lack of basic water and wastewater services created remarkably unsanitary conditions, presenting a constant and often-realized threat to public health. Border counties, generally ill-equipped both statutorily and financially, were in no position to provide the infrastructure improvements needed to reduce the public health threat.

In 1989, the Texas Legislature passed Senate Bill 2, which created the Economically Distressed Areas Program (EDAP). It authorized the Texas Water Development Board to use this program to provide financial assistance to economically distressed areas to provide basic water and wastewater services. In the program’s early history, in order to eligible for this program, an applicant (all political subdivisons, including counties, cities, water districts and nonprofit water supply corporations) had to be in a county that bordered Mexico or in a county that had income levels 25% below the state average and unemployment levels 25% above the state average. Such a county was called an affected county.

Senate Bill 2 also required cities and counties that wanted to participate in EDAP funding to adopt and enforce Model Subdivision Rules (MSR), to be developed by TWDB (See Chapter 16, Subchapter J, Water Code for statutory authorization and Title 31, Texas Administrative Code, Chapter 364 for the model rules themselves. These are included in this section of the sourcebook for your review and use). The rules primarily address water and wastewater issues and are designed to complement and reinforce traditional areas of county subdivision regulation, such as streets, roads, and drainage.

Two distinct regulatory environments were emerging with similar problems but with geographical distinctions: colonias in the border counties and the equivalent substandard development in non-border

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Two distinct regulatory environments were emerging with similar problems but with geographical distinctions: colonias in the border counties and the equivalent substandard development in non-border
In 1999, the Legislature created Subchapter B, initially applicable to counties within 50 miles of the border that also met certain unemployment and low-income levels. Subchapter B gave those counties expanded platting requirements, utility connection authority, and related authority. In 1999, Subchapter B was amended to apply to all border counties, removing the unemployment and low-income requirements.

In the next regular session (1997), the Legislature took the next step and created Subchapter C, applicable to those counties eligible for EDAP funding, but not subject to Subchapter B. By 1999, some 23 counties could operate under this subchapter, but that number would increase due to a significant change made by the 79th Legislature.

In 2005, the 79th Legislature passed HB 467, which, among other things, changed the definition of "affected county". An affected county is now defined as a county that has an economically distressed area which has a median household income that is not greater than 75 percent of the median state household income (Sec. 16.341, Texas Water Code). Changing this definition expanded the number of counties eligible to participate in EDAP; most counties will have areas within their boundaries which meet this requirement.

Overview of Current EDAP program and Model Subdivision Rules

The current definition of an economically distressed area used by TWDB is an area in which the water supply or sewer services are inadequate to meet minimal needs of residential users; the financial resources are inadequate to provide water supply or sewer services to satisfy those needs; and the area was an established residential subdivision as of June 1, 2005. A project must be located in such an economically distressed area and that area to be served by the proposed project must have a median income that is no greater than 75% of the median state income for the most recent year for which statistics are available.

EDAP funds can be used for planning, land acquisition, design, construction for new service or improvements to existing water supply and wastewater collection and treatment facilities and all necessary engineering work. The funds may not be used, however, to pay for operation and maintenance expenses. Although EDAP funds may not be used to pay for water and/or wastewater connections on private property, other programs exist for this purpose, including grant programs run by the Texas Department of Rural Affairs, the Texas Department of Housing and Community Services, the U.S. Department of Agriculture’s Rural Development Program, and the North American Development Bank.

As noted above, all political subdivisions may apply for EDAP funding, including counties, cities, water districts, and nonprofit water supply corporations. The applicant must also obtain any necessary water and wastewater permits, including, as necessary a Certificate of Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality.

As noted above, all political subdivisions may apply for EDAP funding, including counties, cities, water districts, and nonprofit water supply corporations. The applicant must also obtain any necessary water and wastewater permits, including, as necessary a Certificate of Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality.
The county in which the project to be funded is located must adopt the Model Subdivision Rules prior to the application for funding. If the applicant is a city or if any part of the project is in the extraterritorial jurisdiction of a city, the city must also adopt the model rules.

Under the provisions of Subchapter D, Chapter 232, Local Government Code, both Subchapter B and Subchapter C counties are authorized to establish planning commissions; the commissioners court in a county choosing to do so must pass an order to that effect. The commissioners court of a county may authorize the county planning commission to act on behalf of the commissioners court in matters relating to platting duties and authorities and other matters related to land use, health and safety, planning and development, and any applicable enforcement provisions.

Texas Water Development Board has a wealth of resources related to these matters available at http://www.twdb.state.tx.us/assistance/financial/fin_infrastructure/edapfund.asp.

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§ 16.341. Definitions

In this subchapter:

(1) "Affected county" means a county:

(A) that has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available;

(B) that is adjacent to an international border; or

(C) that is located in whole or in part within 100 miles of an international border and contains the majority of the area of a municipality with a population of more than 250,000.

(1) "Affected county" means a county that has an economically distressed area which has a median household income that is not greater than 75 percent of the median state household income

(2) "Economically distressed area" has the meaning assigned by Section 17.921

(3) "Political subdivision" means an affected county, a municipality located in an affected county, a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, located in an affected county, or a nonprofit water supply corporation created and operating under Chapter 67, located in an affected county, that receives funds for facility engineering under Section 15.407 or financial assistance under Subchapter K, Chapter 17, or an economically distressed area in an affected county for which financial assistance is received under Subchapter C, Chapter 15.

(4) "Sewer services" or "sewer facilities" means treatment works as defined by Section 17.001 of this code or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.


§ 16.342. Rules

(a) The board shall adopt rules that are necessary to carry out the program provided by Subchapter K, Chapter 17, of this code and rules:

(1) incorporating existing minimum state standards and rules for water supply and sewer services established by the commission; and

(2) requiring compliance with existing rules of any state agency relating to septic tanks and other waste disposal systems.

(b) In developing rules under this section, the board shall examine other existing laws relating to counties and municipalities.


§ 16.343. Minimum State Standards and Model Political Subdivision Rules

(a) The board shall, after consultation with the attorney general and the commission, prepare and adopt model rules to assure that minimum standards for safe and sanitary water supply and sewer services in residential areas of political subdivisions, including rules of any state agency relating to septic tanks and other waste disposal systems, are met.

(b) The model rules must:

(1) assure that adequate drinking water is available to the residential areas in accordance with Chapter 341, Health and Safety Code, and the Rules and Regulations for Public Water Systems and the Drinking Water Standards Governing Water Quality and Reporting Requirements for Public Water Supply Systems adopted by the commission and other law and rules applicable to drinking water; and

(2) provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005.

(c) The model rules must:

(1) assure that adequate sewer facilities are available to the residential areas through either septic tanks or an organized sewage disposal system that is a publicly or privately owned system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a valid waste discharge permit issued by the commission or private sewage facilities in accordance with Chapter 366, Health and Safety Code, and the Construction Standards for On-Site Sewerage Facilities adopted by the commission and other law and rules applicable to sewage facilities; and

(2) provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005.

(d) The model rules must prohibit the establishment of residential developments with lots of five acres or less in the political subdivision without adequate water supply and sewer services. Also, the model rules must prohibit more than one single-family, detached dwelling to be located on each lot.

(e) The model rules must provide criteria governing the distance that structures must be set back from roads or property lines to ensure proper operation of water supply and sewer services and to reduce the risk of fire hazards.

(1) incorporating existing minimum state standards and rules for water supply and sewer services established by the commission; and

(2) requiring compliance with existing rules of any state agency relating to septic tanks and other waste disposal systems.

(b) In developing rules under this section, the board shall examine other existing laws relating to counties and municipalities.


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(1) assure that adequate drinking water is available to the residential areas in accordance with Chapter 341, Health and Safety Code, and the Rules and Regulations for Public Water Systems and the Drinking Water Standards Governing Water Quality and Reporting Requirements for Public Water Supply Systems adopted by the commission and other law and rules applicable to drinking water; and

(2) provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005.

(c) The model rules must:

(1) assure that adequate sewer facilities are available to the residential areas through either septic tanks or an organized sewage disposal system that is a publicly or privately owned system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a valid waste discharge permit issued by the commission or private sewage facilities in accordance with Chapter 366, Health and Safety Code, and the Construction Standards for On-Site Sewerage Facilities adopted by the commission and other law and rules applicable to sewage facilities; and

(2) provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005.

(d) The model rules must prohibit the establishment of residential developments with lots of five acres or less in the political subdivision without adequate water supply and sewer services. Also, the model rules must prohibit more than one single-family, detached dwelling to be located on each lot.

(e) The model rules must provide criteria governing the distance that structures must be set back from roads or property lines to ensure proper operation of water supply and sewer services and to reduce the risk of fire hazards.

(g) Before an application for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be considered by the board, a political subdivision must adopt the model rules pursuant to this section. If the applicant is a district, nonprofit water supply corporation, or colonia, the applicant must be located in a city or county that has adopted such rules. Applicants for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may not receive funds under those provisions unless the applicable political subdivision adopts and enforces the model rules.


§ 16.344. Oversight

(a) The board shall monitor the performance of a political subdivision that receives financial assistance under Subchapter K, Chapter 17, of this code to ensure that the project approved in the application and plans is constructed in the manner described in the application and plans and that the terms and conditions that govern the financial assistance are satisfied.

(b) A political subdivision that receives financial assistance shall submit to the board monthly or as often as otherwise required by board rules an account of expenditures for the project during the preceding month or other required period.

(c) A political subdivision that receives financial assistance shall furnish at the board’s request additional information necessary for the board to monitor compliance with the approved application and plan for financial assistance and the terms and conditions of the financial assistance.

(d) to (i) Expired.


§ 16.345. Authority to Participate in Program

(a) A political subdivision may exercise any authority necessary to participate in a program under Section 15.407 of this code or Subchapter K, Chapter 17, of this code and carry out the terms and conditions under which the funds or the financial assistance is provided.

(b) In addition to any other authority to issue bonds or other obligations or incur any debt, an affected county or another political subdivision, other than a nonprofit water supply corporation, eligible for financial assistance under Subchapter K, Chapter 17, of this code may issue bonds payable from and secured by a pledge of the revenues derived or to be derived from the operation of water supply or sewer service systems for the purpose of acquiring, constructing, improving, extending, or repairing water supply or sewer facilities. The bonds shall be issued in accordance with and an affected county or another political subdivision may exercise the powers granted by:


(g) Before an application for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be considered by the board, a political subdivision must adopt the model rules pursuant to this section. If the applicant is a district, nonprofit water supply corporation, or colonia, the applicant must be located in a city or county that has adopted such rules. Applicants for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may not receive funds under those provisions unless the applicable political subdivision adopts and enforces the model rules.


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(b) A political subdivision that receives financial assistance shall submit to the board monthly or as often as otherwise required by board rules an account of expenditures for the project during the preceding month or other required period.

(c) A political subdivision that receives financial assistance shall furnish at the board’s request additional information necessary for the board to monitor compliance with the approved application and plan for financial assistance and the terms and conditions of the financial assistance.

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(b) In addition to any other authority to issue bonds or other obligations or incur any debt, an affected county or another political subdivision, other than a nonprofit water supply corporation, eligible for financial assistance under Subchapter K, Chapter 17, of this code may issue bonds payable from and secured by a pledge of the revenues derived or to be derived from the operation of water supply or sewer service systems for the purpose of acquiring, constructing, improving, extending, or repairing water supply or sewer facilities. The bonds shall be issued in accordance with and an affected county or another political subdivision may exercise the powers granted by:
(1) Subchapter B, Chapter 1502, Government Code;

(2) Chapter 1201, Government Code;

(3) Chapter 1371, Government Code; and

(4) other laws of the state.


§ 16.346. Examination of Ability of a District to Provide Services and Financing

(a) In connection with an application under Subchapter K, Chapter 17, of this code, the board may consider and make any necessary investigations and inquiries as to the feasibility of creating a conservation and reclamation district under Article XIV, Section 59, of the Texas Constitution to provide, in lieu of financial assistance under the application, water supply and sewer services in the area covered by the application through issuance of district bonds to be sold on the regular bond market.

(b) In carrying out its authority under this section, the board may require the applicant to provide necessary information to assist the board in making a determination as to the feasibility of creating a district to provide the services and financing covered by the application.

§ 16.347. Requirement of Imposition of Distressed Areas Water Financing Fee

(a) In this section:

(1) "Distressed areas water financing fee" means a fee imposed by a political subdivision on undeveloped property.

(2) "Undeveloped property" means a tract, lot, or reserve in an area in a political subdivision to be served by water supply or sewer services financed in whole or in part with financial assistance from the board under Subchapter K, Chapter 17, of this code for which a plat has been filed under Subchapter A, Chapter 212, or Chapter 232, Local Government Code.

(b) The board may require, as a condition for granting an application for financial assistance under Subchapter K, Chapter 17, of this code to a political subdivision in which a plat is required to be filed under Subchapter A, Chapter 212, or Chapter 232, Local Government Code, that the applicant impose a distressed areas water financing fee on undeveloped property in the political subdivision if the board determines that imposition of the fee would:

(1) reduce the amount of any financial assistance that the board may provide to accomplish the purposes of the political subdivision under the application; or

(2) assist the political subdivision to more effectively retire any debt undertaken by the political subdivision in connection with financial assistance made available by the board to the political subdivision.


§ 16.346. Examination of Ability of a District to Provide Services and Financing

(a) In connection with an application under Subchapter K, Chapter 17, of this code, the board may consider and make any necessary investigations and inquiries as to the feasibility of creating a conservation and reclamation district under Article XIV, Section 59, of the Texas Constitution to provide, in lieu of financial assistance under the application, water supply and sewer services in the area covered by the application through issuance of district bonds to be sold on the regular bond market.

(b) In carrying out its authority under this section, the board may require the applicant to provide necessary information to assist the board in making a determination as to the feasibility of creating a district to provide the services and financing covered by the application.

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(b) The board may require, as a condition for granting an application for financial assistance under Subchapter K, Chapter 17, of this code to a political subdivision in which a plat is required to be filed under Subchapter A, Chapter 212, or Chapter 232, Local Government Code, that the applicant impose a distressed areas water financing fee on undeveloped property in the political subdivision if the board determines that imposition of the fee would:

(1) reduce the amount of any financial assistance that the board may provide to accomplish the purposes of the political subdivision under the application; or

(2) assist the political subdivision to more effectively retire any debt undertaken by the political subdivision in connection with financial assistance made available by the board to the political subdivision.
§ 16.348. Setting of Fee by Political Subdivision; Lien; Delinquent Fees

(a) Before a political subdivision may set the amount of or impose a fee under Section 16.347 of this code, the political subdivision shall hold a hearing on the matter.

(b) Notice of the hearing shall be published in a newspaper of general circulation in the political subdivision once a week for two consecutive weeks. The first publication must occur not later than the 30th day before the date of the hearing. The political subdivision shall send, not later than the 30th day before the date of the hearing, notice of the hearing by certified mail, return receipt requested, to each owner of undeveloped property in the political subdivision. The tax assessor and collector of the political subdivision shall certify to the political subdivision the names of the persons owning undeveloped land in the political subdivision as reflected by the most recent certified tax roll of the political subdivision. Notice of the hearing also must be provided by certified mail, return receipt requested, to each mortgagee of record that has submitted a written request to be informed of any hearings. To be effective, the written request must be received by the political subdivision not later than the 60th day before the date of the hearing. The written request for notice must include the name and address of the mortgagee, the name of the property owner in the political subdivision, and a brief property description.

(c) The amount of a distressed areas water financing fee imposed by a political subdivision pursuant to this section must be reasonably related to that portion of the total amount required to be paid annually in repayment of financial assistance that can be attributed to undeveloped property in the area to be served by water supply and sewer services provided with that financial assistance.

(d) The distressed areas water financing fee or the lien securing the fee is not effective or enforceable until the governing body of the political subdivision has filed for recordation with the county clerk in each county in which any part of the political subdivision is located and the county clerk has recorded and indexed a duly affirmed and acknowledged notice of imposition of the distressed areas water financing fee containing the following information:

(1) the name of the political subdivision;

(2) the date of imposition by the political subdivision of the distressed areas water financing fee;

(3) the year or years to which the distressed areas water financing fee applies; and

(4) a complete and accurate legal description of the boundaries of the political subdivision.

(e) On January 1 of each year, a lien attaches to undeveloped property to secure payment of any fee imposed under this section and the interest, if any, on the fee. The lien shall be treated as if it were a tax lien and has the same priority as a lien for taxes of the political subdivision.

(f) If a distressed areas water financing fee imposed under Section 16.347 of this code is not paid in a timely manner, the political subdivision may file suit to foreclose the lien securing payment of the fee and interest. The political subdivision may recover, in addition to the fee and interest, reasonable costs, including attorney’s fees, incurred by the political subdivision in enforcing the lien not to exceed 15 percent of the delinquent fee and interest. A suit authorized by this subsection must be filed not later than

§ 16.348. Setting of Fee by Political Subdivision; Lien; Delinquent Fees

(a) Before a political subdivision may set the amount of or impose a fee under Section 16.347 of this code, the political subdivision shall hold a hearing on the matter.

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(c) The amount of a distressed areas water financing fee imposed by a political subdivision pursuant to this section must be reasonably related to that portion of the total amount required to be paid annually in repayment of financial assistance that can be attributed to undeveloped property in the area to be served by water supply and sewer services provided with that financial assistance.

(d) The distressed areas water financing fee or the lien securing the fee is not effective or enforceable until the governing body of the political subdivision has filed for recordation with the county clerk in each county in which any part of the political subdivision is located and the county clerk has recorded and indexed a duly affirmed and acknowledged notice of imposition of the distressed areas water financing fee containing the following information:

(1) the name of the political subdivision;

(2) the date of imposition by the political subdivision of the distressed areas water financing fee;

(3) the year or years to which the distressed areas water financing fee applies; and

(4) a complete and accurate legal description of the boundaries of the political subdivision.

(e) On January 1 of each year, a lien attaches to undeveloped property to secure payment of any fee imposed under this section and the interest, if any, on the fee. The lien shall be treated as if it were a tax lien and has the same priority as a lien for taxes of the political subdivision.

(f) If a distressed areas water financing fee imposed under Section 16.347 of this code is not paid in a timely manner, the political subdivision may file suit to foreclose the lien securing payment of the fee and interest. The political subdivision may recover, in addition to the fee and interest, reasonable costs, including attorney’s fees, incurred by the political subdivision in enforcing the lien not to exceed 15 percent of the delinquent fee and interest. A suit authorized by this subsection must be filed not later than
the fourth anniversary of the date the fee became due. A fee delinquent for more than four years and interest on the fee are considered paid unless a suit is filed before the expiration of the four-year period.

(g) A person owning undeveloped property for which a distressed areas water financing fee is assessed under this section may not construct or add improvements to the property if the fee is delinquent.

(b) A political subdivision shall, on the written request of any person and within five days after the date of the request, issue a certificate stating the amount of any unpaid distressed areas water financing fees, including interest on the fees that have been imposed or assessed against a tract of property located in the political subdivision. The political subdivision may charge a fee not to exceed § 10 for each certificate issued through fraud or collusion.

§ 16.349. Fees

(a) A political subdivision that receives financial assistance may charge persons in an economically distressed area in which water supply and sewer services are furnished an amount for those services that is not less than the amount provided in the application for financial assistance.

(b) Except as provided by Subsection (c), the amount charged under Subsection (a) of this section may be equal to or less than the rates paid for water supply and sewer services by residents of the political subdivision.

(c) A political subdivision holding a certificate of convenience and necessity described by Section 13.242, that extends service to an economically distressed area outside the boundaries of the political subdivision, may not charge the residents of the area rates that exceed the lesser of:

(1) the cost of providing service to the area; or

(2) the rates charged other residents of the political subdivision plus 15 percent.


§ 16.350. Eligible Counties and Municipalities to Adopt Rules

(a) A county or municipality that applies for or receives funds or financial assistance under Section 15.407 of this code or Subchapter K, Chapter 17, of this code must adopt and enforce the model rules developed under Section 16.343 of this code to be eligible to participate in this program. The county or municipality by order or ordinance shall adopt and enter the model rules in the minutes of a meeting of its governing body and shall publish notice of that action in a newspaper with general circulation in the county or municipality. A municipality is eligible to participate in this program only if the county in which the project is located adopts and enforces the model rules.

(b) Rules adopted by the commissioners court under this section must apply to all the unincorporated area of the county.

§ 16.349. Fees

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(b) Except as provided by Subsection (c), the amount charged under Subsection (a) of this section may be equal to or less than the rates paid for water supply and sewer services by residents of the political subdivision.

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(b) Rules adopted by the commissioners court under this section must apply to all the unincorporated area of the county.
(c) A municipality may adopt rules relating to water supply and sewer services within its corporate boundaries and extraterritorial jurisdiction that are more strict than those prepared under Section 16.343 of this code.

(d) A county or municipality that receives funds or financial assistance under Section 15.407 of this code or Subchapter K, Chapter 17, of this code may grant an exemption for a subdivision from the requirements of the model rules only if the county or municipality supplies the subdivision with water supply and sewer services that meet the standards of the model rules.

§ 16.351. Contract Preference

A political subdivision that receives financial assistance under Subchapter K, Chapter 17, of this code shall give preference in the award of political subdivision contracts to acquire, construct, extend, or provide water supply and sewer services or facilities to a bidder that agrees to use labor from inside the political subdivision to the extent possible.

§ 16.352. Enforcement of Rules

A person who violates a rule adopted by a municipality or county under this subchapter or under Subchapter B or C, Chapter 232, Local Government Code, is liable to the municipality or county for a civil penalty of not less than $500 and not more than $1,000 for each violation and for each day of a violation. The maximum civil penalty that may accrue each day is $5,000. The appropriate attorney representing the municipality or county may sue to collect the penalty. The recovered penalty shall be deposited in the general fund of the municipality or county.


§ 16.353. Injunction

(a) In addition to any other remedy, the attorney general, the municipal attorney of the municipality in which a violation under Section 16.352 occurs, or the county or district attorney of the county in which a violation under Section 16.352 occurs may apply to a district court for, and the district court may grant, the state or the political subdivision an appropriate prohibitory or mandatory order, including a temporary restraining order or a temporary or permanent injunction, enjoining a violation of this subchapter, the rules described by Section 16.352, or Subchapter B or C, Chapter 232, Local Government Code.

(b) An injunction issued under this section may be issued without the requirement of a bond or other undertaking.


§ 16.3535. Damages

In addition to any other remedy, the attorney general, the municipal attorney of the municipality in which a violation under Section 16.352 occurs, or the county or district attorney of the county in which a violation under Section 16.352 occurs may apply to a district court for, and the district court may grant, monetary

(c) A municipality may adopt rules relating to water supply and sewer services within its corporate boundaries and extraterritorial jurisdiction that are more strict than those prepared under Section 16.343 of this code.

(d) A county or municipality that receives funds or financial assistance under Section 15.407 of this code or Subchapter K, Chapter 17, of this code may grant an exemption for a subdivision from the requirements of the model rules only if the county or municipality supplies the subdivision with water supply and sewer services that meet the standards of the model rules.

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(b) An injunction issued under this section may be issued without the requirement of a bond or other undertaking.


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In addition to any other remedy, the attorney general, the municipal attorney of the municipality in which a violation under Section 16.352 occurs, or the county or district attorney of the county in which a violation under Section 16.352 occurs may apply to a district court for, and the district court may grant, monetary
In addition to the ability of any political subdivision to enforce this subchapter, the attorney general may file suit to:

1. enforce a rule adopted under Section 16.350;
2. recover a civil penalty under Section 16.352;
3. obtain injunctive relief under Section 16.353;
4. recover damages under Section 16.3535;
5. enforce a political subdivision's rules, recover any penalty, recover any damages, and obtain any injunctive relief; or
6. recover attorney's fees, investigative costs, and court costs.

**HISTORY:** Acts 1999, 76th Leg., ch. 404, effective September 1, 1999.

### § 16.354. Venue

A suit brought under this subchapter for injunctive relief or the recovery of a civil penalty or damages may be brought in a district court in:

1. the county in which the defendant resides;
2. the county in which the alleged violation or threat of violation occurs; or
3. Travis County.

**HISTORY:** Acts 1999, 76th Leg., ch. 404, effective September 1, 1999.

### § 16.355. Authority Over Facilities

A political subdivision may construct, contract for construction, operate, or contract with any person for operation of any water supply or sewer services or facilities provided by the political subdivision with financial assistance obtained under Subchapter K, Chapter 17, of this code.

**HISTORY:** Acts 1999, 76th Leg., ch. 404, effective September 1, 1999.

### § 16.356. Attorney General Enforcement

In addition to the ability of any political subdivision to enforce this subchapter, the attorney general may file suit to:

1. enforce a rule adopted under Section 16.350;
2. recover a civil penalty under Section 16.352;
3. obtain injunctive relief under Section 16.353;
4. recover damages under Section 16.3535;
5. enforce a political subdivision's rules, recover any penalty, recover any damages, and obtain any injunctive relief; or
6. recover attorney's fees, investigative costs, and court costs.

**HISTORY:** Acts 1999, 76th Leg., ch. 404, effective September 1, 1999.
§ 16.356. Use of Revenue From Operation of Water Supply or Sewer Service Projects

(a) A political subdivision that receives financial assistance from the economically distressed areas program under Subchapter K, Chapter 17, may not use any revenue received from fees collected from a water supply or sewer service constructed in whole or in part from funds from the economically distressed areas program account for purposes other than utility purposes. The annual financial statement prepared by a municipality under Section 103.001, Local Government Code, must include a specific report on compliance with this section.

(b) At the request of the board or on the attorney general’s own initiative, the attorney general may file suit to enjoin an actual or threatened violation of this section.

§ 17.921. Definitions

In this subchapter:

(1) "Economically distressed area" means an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005, as determined by the board.

(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply and sewer services under this subchapter.

(3) "Political subdivision" means a county, municipality, a nonprofit water supply corporation created and operating under Chapter 67, or district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(4) "Water conservation" means those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

(5) "Sewer services" and "sewer facilities" mean treatment works or individual, on-site, or cluster treatment systems such as septic tanks and include drainage facilities and other improvements for proper functioning of the sewer services and other facilities.

(6) "Economically distressed areas account" means the economically distressed areas account in the Texas Water Development Fund or the economically distressed areas program account in the Texas Water Development Fund II.

§ 17.922. Financial Assistance

(a) The economically distressed areas account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing funds from the account for the state’s participation in federal programs that provide assistance to political subdivisions.

(b) To the extent practicable, the board shall use the funds in the economically distressed areas account in conjunction with the other financial assistance available through the board to encourage the use of cost-effective water supply and wastewater systems, including regional systems, to maximize the long-term economic development of counties eligible for financial assistance under the economically distressed areas program. Any savings derived from the construction of a regional system that includes or serves an economically distressed area project shall be factored into the board’s determination of financial assistance for the economically distressed area in a manner that ensures the economically distressed area receives appropriate benefits from the savings. In no event shall financial assistance provided from the economically distressed areas account be used to provide water supply or wastewater service to any area that is not an economically distressed area.


§ 17.9225. Residential Water and Sewer Connection Assistance

(a) The legislature finds that, due to public health and sanitation concerns, it is in the public interest to use funds in the economically distressed areas account to provide financial assistance for the costs associated with the initial connection to public water supply and sanitary sewer systems of residences that otherwise benefit from financial assistance.

(b) A political subdivision may use financial assistance to pay:

1. the costs of connecting a residence to a public water supply system constructed with financial assistance;

2. the costs of installing yard water service connections;

3. the costs of installing indoor plumbing facilities and fixtures;

4. the costs of connecting a residence to a sanitary sewer system constructed with financial assistance;

5. necessary connection and permit fees; and

6. necessary costs related to the design of plumbing improvements described by this subsection.

(c) Assistance under this section shall only be provided to residents who demonstrate an inability to pay for the improvements described in Subsection (b) in accordance with board rules. If the board determines that a resident to whom assistance has been provided is ineligible to receive the assistance, the board may seek reimbursement from the resident. The board shall adopt rules to implement the provisions of this section.


§ 17.9225. Residential Water and Sewer Connection Assistance

(a) The legislature finds that, due to public health and sanitation concerns, it is in the public interest to use funds in the economically distressed areas account to provide financial assistance for the costs associated with the initial connection to public water supply and sanitary sewer systems of residences that otherwise benefit from financial assistance.

(b) A political subdivision may use financial assistance to pay:

1. the costs of connecting a residence to a public water supply system constructed with financial assistance;

2. the costs of installing yard water service connections;

3. the costs of installing indoor plumbing facilities and fixtures;

4. the costs of connecting a residence to a sanitary sewer system constructed with financial assistance;

5. necessary connection and permit fees; and

6. necessary costs related to the design of plumbing improvements described by this subsection.

(c) Assistance under this section shall only be provided to residents who demonstrate an inability to pay for the improvements described in Subsection (b) in accordance with board rules. If the board determines that a resident to whom assistance has been provided is ineligible to receive the assistance, the board may seek reimbursement from the resident. The board shall adopt rules to implement the provisions of this section.


§ 17.927. Application for Financial Assistance

(a) A political subdivision may apply to the board for financial assistance under this subchapter by submitting an application together with a plan for providing water supply and sewer services to an economically distressed area for which the financial assistance is to be used.

(b) The application and plan must include:

(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision was created and operates;

(3) a project plan, prepared and certified by an engineer registered to practice in this state, that must:

(A) describe the proposed planning, design, and construction activities necessary to provide water supply and sewer services that meet minimum state standards; and

(B) identify the households to which the water supply and sewer services will be provided;

(4) a budget that estimates the total cost of providing water supply and sewer services to the economically distressed area and a proposed schedule and method for repayment of financial assistance consistent with board rules and guidelines;

(5) a description of the existing water supply and sewer facilities located in the area to be served by the proposed project, including a statement prepared and certified by an engineer registered to practice in this state that the facilities do not meet minimum state standards;

(6) documentation that the appropriate political subdivision has adopted the model rules developed under Section 16.343;

(7) information identifying the median household income for the area to be served by the proposed project; and

(8) the total amount of assistance requested from the economically distressed areas account.

(c) Before the board approves the application or provides any funds under an application, it shall require an applicant to adopt a program of water conservation for the more effective use of water that meets the criteria established under Section 17.125.

(d) Before considering an application, the board may require the applicant to:


§ 17.927. Application for Financial Assistance

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(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision was created and operates;

(3) a project plan, prepared and certified by an engineer registered to practice in this state, that must:

(A) describe the proposed planning, design, and construction activities necessary to provide water supply and sewer services that meet minimum state standards; and

(B) identify the households to which the water supply and sewer services will be provided;

(4) a budget that estimates the total cost of providing water supply and sewer services to the economically distressed area and a proposed schedule and method for repayment of financial assistance consistent with board rules and guidelines;

(5) a description of the existing water supply and sewer facilities located in the area to be served by the proposed project, including a statement prepared and certified by an engineer registered to practice in this state that the facilities do not meet minimum state standards;

(6) documentation that the appropriate political subdivision has adopted the model rules developed under Section 16.343;

(7) information identifying the median household income for the area to be served by the proposed project; and

(8) the total amount of assistance requested from the economically distressed areas account.

(c) Before the board approves the application or provides any funds under an application, it shall require an applicant to adopt a program of water conservation for the more effective use of water that meets the criteria established under Section 17.125.

(d) Before considering an application, the board may require the applicant to:
(1) provide documentation to the executive administrator sufficient to allow review of the applicant’s managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(2) provide a written determination by the commission on the applicant’s managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(3) request that the comptroller perform a financial management review of the applicant and, if the review is performed, provide the board with the results of the review; or

(4) provide any other information required by the board or the executive administrator.


§ 17.928. Findings Regarding Permits

(a) The board shall not release funds for the construction of that portion of a project that proposes surface water or groundwater development until the executive administrator makes a written finding:

(1) that an applicant proposing surface-water development has the necessary water right authorizing it to appropriate and use the water that the water supply project will provide; or

(2) that an applicant proposing groundwater development has the right to use water that the water supply project will provide.

(b) The board may release funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a) if the executive administrator determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) If an applicant includes a proposal for treatment works, the board may not deliver funds for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from the commission or unless such a permit is not required by the commission.


§ 17.929. Considerations in Passing on Application

(a) In passing on an application for financial assistance, the board shall consider:

(1) the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications;

(1) provide documentation to the executive administrator sufficient to allow review of the applicant’s managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(2) provide a written determination by the commission on the applicant’s managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(3) request that the comptroller perform a financial management review of the applicant and, if the review is performed, provide the board with the results of the review; or

(4) provide any other information required by the board or the executive administrator.


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(1) that an applicant proposing surface-water development has the necessary water right authorizing it to appropriate and use the water that the water supply project will provide; or

(2) that an applicant proposing groundwater development has the right to use water that the water supply project will provide.

(b) The board may release funds for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a) if the executive administrator determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) If an applicant includes a proposal for treatment works, the board may not deliver funds for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from the commission or unless such a permit is not required by the commission.


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(a) In passing on an application for financial assistance, the board shall consider:

(1) the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications;
(2) the availability to the area to be served by the project of revenue or financial assistance from alternative sources for the payment of the cost of the proposed project;

(3) the financing of the proposed water supply and sewer project including consideration of:

(A) the budget and repayment schedule submitted under Section 17.927(b)(4);

(B) other items included in the application relating to financing; and

(C) other financial information and data available to the board;

(4) whether the county and other appropriate political subdivisions have adopted model rules pursuant to Section 16.343 and the manner of enforcement of model rules;

(5) the feasibility of achieving cost savings by providing a regional facility for water supply or wastewater service and the feasibility of financing the facility by using funds from the economically distressed areas account or any other financial assistance.

(b) At the time an application for financial assistance is considered, the board also must find that the area to be served by a proposed project has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available.


§ 17.930. Approval or Disapproval of Application

(a) The board may issue a decision to approve an application contingent on changes being made to the plan submitted with the application.

(b) After making the considerations provided by Section 17.929, the board by resolution shall:

(1) approve the plan and application as submitted;

(2) approve the plan and application subject to the requirements identified by the board or commission for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, the board considers appropriate;

(3) deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance;

(4) if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project; or

(5) deny the application.

(b) The board may issue a decision to approve an application contingent on changes being made to the plan submitted with the application.

(b) After making the considerations provided by Section 17.929, the board by resolution shall:

(1) approve the plan and application as submitted;

(2) approve the plan and application subject to the requirements identified by the board or commission for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, the board considers appropriate;

(3) deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance;

(4) if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project; or

(5) deny the application.
(c) The board shall notify the applicant in writing of its decision.

(d) The board may require the applicant to provide local funds in an amount approved by the board under this subchapter, and the board shall provide the remaining funds from the economically distressed areas account.


§ 17.931. Application Amendment

(a) A political subdivision may request the board in writing to approve a change to or a modification of the budget or project plan included in its application.

(b) A change or modification may not be implemented unless the board provides its written approval.

§ 17.932. Method of Financial Assistance

(a) The board may provide financial assistance to political subdivisions by using money in the economically distressed areas account to purchase political subdivision bonds.

(b) The board may make financial assistance available to political subdivisions in any other manner that it considers feasible, including:

1) contracts or agreements with a political subdivision for acceptance of financial assistance that establish any repayment based on the political subdivision's ability to repay the assistance and that establish requirements for acceptance of the assistance; or

2) contracts or agreements for providing financial assistance in any federal or federally assisted project or program.

§ 17.933. Terms of Financial Assistance

(a) The board may use money in the economically distressed areas account to provide financial assistance to a political subdivision in the form of a loan, including a loan with zero interest, grant, or other type of financial assistance to be determined by the board taking into consideration the information provided by Section 17.927(b)(7).

(b) In providing financial assistance to an applicant under this subchapter, the board may not provide to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Texas Department of Health issues a finding that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project. The board and the applicant shall provide to the Texas Department of Health information necessary to make a determination, and the board and the Texas Department of Health may enter into necessary memoranda of understanding to carry out this subsection.

(c) The board shall notify the applicant in writing of its decision.

(d) The board may require the applicant to provide local funds in an amount approved by the board under this subchapter, and the board shall provide the remaining funds from the economically distressed areas account.


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(b-1) In providing financial assistance in the form of a loan under this subchapter to a conservation and reclamation district created under authority of Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, the board shall make the loan to the district without charging interest.

(c) The total amount of financial assistance provided by the board to political subdivisions under this subchapter from state-issued bonds for which repayment is not required may not exceed at any time 90 percent of the total principal amount of issued and unissued bonds authorized under Article III of the Texas Constitution, for purposes of this subchapter plus outstanding interest on those bonds.

(d) In determining the amount and form of financial assistance and the amount and form of repayment, if any, the board shall consider:

(1) rates, fees, and charges that the average customer to be served by the project will be able to pay based on a comparison of what other families of similar income who are similarly situated pay for comparable services;

(2) sources of funding available to the political subdivision from federal and private funds and from other state funds;

(3) any local funds of the political subdivision to be served by the project if the economically distressed area to be served by the board’s financial assistance is within the boundary of the political subdivision; and

(4) the just, fair, and reasonable charges for water and wastewater service as provided in this code.

(e) In making its determination under Subsection (d)(1) of this section, the board may consider any study, survey, data, criteria, or standard developed or prepared by any federal, state, or local agency, private foundation, banking or financial institution, or other reliable source of statistical or financial data or information.

(f) The board may provide financial assistance money under this subchapter for treatment works as defined by Section 17.001 of this code only if the board determines that it is not feasible in the area covered by the application to use septic tanks as the method for providing sewer services under the applicant’s plan.

(g) Repealed by Acts 2005, 79th Leg., ch. 927, § 15.


§ 17.934. Sewer Connections

(a) Notwithstanding any other law, a political subdivision that is located in a county in which a political subdivision has received financial assistance under this subchapter or under Subchapter F, Chapter 15, of this code may:
§ 17.935. Grant Standards

The Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon’s Texas Civil Statutes) does not apply to financial assistance provided under this subchapter.

§ 17.936. Recovery of Economically Distressed Area Impact Fees

(a) It is the intent of the legislature that a private developer not unduly benefit from the expenditure by the state of public funds on infrastructure for public benefit.

(b) In this section:

(1) “Capital improvement costs” includes:

(A) the construction contract price;
(B) surveying and engineering fees;
(C) land acquisition costs, including land purchases, court awards and costs, attorney’s fees, and expert witness fees;
(D) fees actually paid or contracted to be paid to an independent, qualified engineer or financial consultant who is:

(i) preparing or updating the capital improvements plan; and
(ii) not an employee of the subdivision; and
(E) projected interest charges and other finance costs that are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements plan and that are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan of the subdivision.

(2) “Economically distressed areas program impact fees” means the pro rata share of the capital improvement costs attributable to each lot in an economically distressed area.

(c) This section applies only to property located in:

(1) the unincorporated area of an affected county, as defined by Section 16.341; and
(2) require property owners to connect to the sewer system.

(b) The board may require, as a condition for granting an application for financial assistance under this subchapter to a political subdivision for construction of sewer services, that the applicant exercise its authority under this section.

§ 17.935. Grant Standards

The Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon’s Texas Civil Statutes) does not apply to financial assistance provided under this subchapter.

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(B) surveying and engineering fees;
(C) land acquisition costs, including land purchases, court awards and costs, attorney’s fees, and expert witness fees;
(D) fees actually paid or contracted to be paid to an independent, qualified engineer or financial consultant who is:

(i) preparing or updating the capital improvements plan; and
(ii) not an employee of the subdivision; and
(E) projected interest charges and other finance costs that are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements plan and that are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan of the subdivision.

(2) “Economically distressed areas program impact fees” means the pro rata share of the capital improvement costs attributable to each lot in an economically distressed area.

(c) This section applies only to property located in:

(1) the unincorporated area of an affected county, as defined by Section 16.341; and
(d) The provider of water or wastewater utility service to an economically distressed area may recover from a developer or owner of an undeveloped lot economically distressed areas program impact fees as provided by rules adopted by the board.

§ 364.1. Scope of Chapter

This chapter contains model rules which the Texas Water Development Board (board) is required to adopt in accordance with Texas Water Code, § 16.343. Before an application for financial assistance from Economically Distressed Areas Program as specified in Chapter 355, Subchapter B of this title or Chapter 363, Subchapter E of this title may be considered by the board, the applicant shall provide documentation satisfactory in form and in substance that the municipality, if applicable, and county in which the applicant is located has adopted the necessary orders, ordinances, or other rules that meet the requirements of the Model Subdivision Rules contained in Subchapter B of this chapter.

SOURCE: The provisions of this § 364.1 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.2. Purpose

The model rules provide the criteria for assuring that an adequate supply of safe drinking water and adequate safe sewer facilities are available to residential areas in accordance with state standards established by the Texas Department of Health and the Texas Commission on Environmental Quality. The model rules prohibit the establishment of residential developments with lots of five acres or less without adequate water supply and sewer services, prohibit more than one single-family, detached dwelling to be located on each subdivision lot, and establish minimum setbacks to ensure proper operation of water supply and sewer services and to reduce the risk of fire hazards.

SOURCE: The provisions of this § 364.2 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

§ 364.11. Authority and Scope of Rules

These rules are adopted by _______ County, Texas, under the authority of the Local Government Code, Chapter 232 and Water Code, § 16.350. Notwithstanding any provision to the contrary, these rules apply only to a subdivision which creates two or more lots of five acres or less intended for residential purposes. Lots of five acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

SOURCE: The provisions of this § 364.11 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.12. Purpose
It is the purpose of these rules to promote the public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of this county, and to apply the minimum state standards for water and wastewater facilities to these subdivisions.

**SOURCE:** The provisions of this § 364.12 adopted to be effective February 10, 2000, 25 TexReg 800

**§ 364.13. Effective Date**

These rules become effective on the ___ day of __________, ____.

**SOURCE:** The provisions of this § 364.13 adopted to be effective February 10, 2000, 25 TexReg 800

**§ 364.14. Repealer**

Provisions of Order(s) Number ____, adopted on the ___ day of _____, ____, are hereby repealed, except to such sections which are retained herein.

**SOURCE:** The provisions of this § 364.14 adopted to be effective February 10, 2000, 25 TexReg 800

**§ 364.15. Plat Required**

(a) The owner of a tract of land located outside the corporate limits of a municipality that divides the tract in any manner that creates two or more lots of five acres or less intended for residential purposes must have a plat of the subdivision prepared. Lots of five acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.

(b) No subdivided land shall be sold or conveyed until the subdivider:

(1) has received approval of a final plat of the tract; and

(2) has filed and recorded with the county clerk of the county in which the tract is located a legally approved plat.

(c) A division of a tract is defined as including a metes and bounds description, or any description of less than a whole parcel, in a deed of conveyance or in a contract for a deed, using a contract of sale or other executory contract, lease/purchase agreement, or using any other method to convey property.

**SOURCE:** The provisions of this § 364.15 adopted to be effective February 10, 2000, 25 TexReg 800

**§ 364.16. Supersession**

These rules supersede any conflicting regulations of the county.

**SOURCE:** The provisions of this § 364.16 adopted to be effective February 10, 2000, 25 TexReg 800

**§ 364.17. Severability**

**SOURCE:** The provisions of this § 364.17 adopted to be effective February 10, 2000, 25 TexReg 800
If any part or provision of these regulations, or application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The commissioners court hereby declares that it would have enacted the remainder of these regulations without any such part, provision or application.

SOURCE: The provisions of this § 364.17 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.18. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

1. Commission—The Texas Commission on Environmental Quality and any of its predecessor or successor entities.

2. Commissioners court (or court)—The commissioners court of _______ County, Texas.

3. County—_______ County, Texas.

4. Drinking water—All water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.

5. Engineer—A person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.

6. Final plat—A map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the county records and prepared as described in these regulations.

7. Lot—An undivided tract or parcel of land.

8. Non-public water system—Any water system supplying water for domestic purposes which is not a public water system.

9. OSSF—On-site sewage facilities as that term is defined in rules and/or regulations adopted by the commission, including, but not limited to, 30 TAC Chapter 285.

10. Platted—Recorded with the county in an official plat record.

11. Public water system—A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms "in-
individual” or “served,” an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

(12) Purchaser—Shall include purchasers under executory contracts for conveyance of real property.

(13) Retail public utility—Any entity meeting the definition of a retail public utility as defined in Water Code § 13.002.

(14) Sewerage facilities—The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.

(15) Subdivider—Any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.

(16) Subdivision—Any tract of land divided into two or more parts that results in the creation of two or more lots of five acres or less intended for residential purposes. A subdivision includes re-subdivision (replat) of land which was previously divided.

(17) TAC—Texas Administrative Code, as compiled by the Texas Secretary of State.

(18) Water facilities—Any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

SOURCE: The provisions of this § 364.18 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

TITLE 31. NATURAL RESOURCES AND CONSERVATION
PART 10. TEXAS WATER DEVELOPMENT BOARD
CHAPTER 364. MODEL SUBDIVISION RULES
DIVISION 2. MINIMUM STANDARDS

§ 364.31. Scope of Standards

The establishment of a residential development with two or more lots of five acres or less where the water supply and sewer services do not meet the minimum standards of this division is prohibited. A subdivision with lots of five acres or less is presumed to be a residential development unless the land is restricted to nonresidential use on the final plat and all deeds and contracts for deeds.

SOURCE: The provisions of this § 364.31 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.32. Water Facilities Development

(a) Public water systems.

(1) Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility in substantially the form attached in Appendix 1A. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water

individual” or “served,” an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

(12) Purchaser—Shall include purchasers under executory contracts for conveyance of real property.

(13) Retail public utility—Any entity meeting the definition of a retail public utility as defined in Water Code § 13.002.

(14) Sewerage facilities—The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.

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(16) Subdivision—Any tract of land divided into two or more parts that results in the creation of two or more lots of five acres or less intended for residential purposes. A subdivision includes re-subdivision (replat) of land which was previously divided.

(17) TAC—Texas Administrative Code, as compiled by the Texas Secretary of State.

(18) Water facilities—Any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

SOURCE: The provisions of this § 364.18 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

TITLE 31. NATURAL RESOURCES AND CONSERVATION
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(1) Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility in substantially the form attached in Appendix 1A. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water
meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat.

Display Image

(2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the commission. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC §§ 290.38-290.51 and §§ 290.101-290.120. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for new public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(b) Non-public water systems. Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for individual water supply wells on individual lots and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC §§ 290.104, 290.106, 290.108 and 290.109, either:

(1) without any treatment to the water; or

(2) with treatment by an identified and commercially available water treatment system.

(c) Transportation of potable water. The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.

SOURCE: The provisions of this § 364.32 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

§ 364.33. Wastewater Disposal

(a) Organized sewerage facilities.

(1) Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the commission in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317 from the commission.

(2) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form attached in Appendix 1B with the retail pub-
lic utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is available to each lot upon completion of construction of the wastewater facilities described on the final plat. Engineering plans for the proposed wastewater collection lines must comply with 30 TAC Chapter 317.

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(b) On-site sewerage facilities.

(1) On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than 5,000 gallons per day must comply with 30 TAC Chapter 285.

(2) Proposals for sewerage facilities for the disposal of sewage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317.

(3) The commission or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in particular §§ 285.4, 285.5 and 285.30-285.39. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC § 285.36(i), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

SOURCE: The provisions of this § 364.33 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

§ 364.34. Greywater Systems for Reuse of Treated Wastewater

(a) Organized or municipal sewerage systems. Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by the commission.

(b) On-site sewerage facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC Chapter 285.

SOURCE: The provisions of this § 364.34 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

§ 364.35. Sludge Disposal

The disposal of sludge from water treatment and sewerage facilities shall meet the criteria of 30 TAC Chapter 312 and Chapter 317.

SOURCE: The provisions of this § 364.35 adopted to be effective February 10, 2000, 25 TexReg 800
§ 364.36. Setbacks

In areas that lack a nationally recognized fire code as listed in Local Government Code, § 233.062(c) and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of 10 feet, setbacks from adjacent property lines shall be a minimum of five feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the county shall control to the extent greater setbacks are therein required.

SOURCE: The provisions of this § 364.36 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

§ 364.37. Number of Dwellings Per Lot

No more than one single family detached dwelling shall be located on each lot. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Proposals which include multi-family residential shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.

SOURCE: The provisions of this § 364.37 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.51. Applications for Plat Approval

(a) Owner representation. An application for approval of a plat shall be filed with the county by the record owner of the property to be subdivided or the duly authorized agent of the record owner.

(b) Standards. Every plat creating two or more lots of five acres or less for residential use shall comply with the standards of Division 2 and the requirements of Division 3 of this subchapter.

SOURCE: The provisions of this § 364.51 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.52. Final Engineering Report

The final plat shall include on the plat or have attached to the plat an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the county shall be provided for those unconstructed water supply and distribution facilities and wastewater collection and treatment facilities which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities.

§ 364.36. Setbacks

In areas that lack a nationally recognized fire code as listed in Local Government Code, § 233.062(c) and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of 10 feet, setbacks from adjacent property lines shall be a minimum of five feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the county shall control to the extent greater setbacks are therein required.

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SOURCE: The provisions of this § 364.37 adopted to be effective February 10, 2000, 25 TexReg 800
If financial guarantees are to be provided under § 364.54 of this title, the schedule shall include the start dates and completion dates.

(1) Public water systems.

(A) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1A and referenced in § 364.32(a)(1) of this title. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project which may include in addition to the county the commission and the county health department. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for a public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision.

(B) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the commission and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for a public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(2) Non-public water systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with § 364.32 of this title. Results of such analyses shall be made available to the prospective property owners. Where the water quality of the test well required pursuant to § 364.33(a) meets the drinking water standards as set forth in that section, the water system shall be treated by a identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the county at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for individual water supply wells on individual lots and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision.

The description of the required sanitary control easement shall be included.

(3) Organized sewerage facilities.

(A) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1B and referenced in § 364.33(a)(2) of this title. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the commission

If financial guarantees are to be provided under § 364.54 of this title, the schedule shall include the start dates and completion dates.

(1) Public water systems.

(A) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1A and referenced in § 364.32(a)(1) of this title. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project which may include in addition to the county the commission and the county health department. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for a public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision.

(B) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the commission and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for a public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(2) Non-public water systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with § 364.32 of this title. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to § 364.33(a) meets the water quality standards as set forth in that section, the water system shall be treated by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the county at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for individual water supply wells on individual lots and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision.

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and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.

(B) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the commission. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the commission and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.

(4) On-site sewerage facilities. Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC § 285.46(c), including the site evaluation described by 30 TAC § 285.30 and all other information required by the county’s OSSF order.

**SOURCE:** The provisions of this § 364.52 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

§ 364.53. Additional Information

The county may, at its option, require additional information necessary to determine the adequacy of proposed water and wastewater improvements as part of the plat approval process. Such information may include, but not be limited to:

1. layout of proposed street and drainage work;
2. legal description of the property;
3. existing area features;
4. topography;
5. flood plains;
6. description of existing easements;
7. layout of other utilities;
8. notation of deed restrictions;
9. public use areas; or
10. proposed area features.

**SOURCE:** The provisions of this § 364.53 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.54. Financial Guarantees for Improvements

(a) Applicability. If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of five acres or less at the time final plat approval is sought, then the commissioners court shall require the owner of the subdivided tract to execute an agreement with the county in substantially the form attached in Appendix 2A secured by a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit which meet the requirements set forth below.

**SOURCE:** The provisions of this § 364.54 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.54. Financial Guarantees for Improvements

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(b) Bonds. A bond that is submitted in compliance with subsection (a) of this section shall meet the following requirements.

1. The bond or financial guarantee shall be payable to the county judge of the county, in his official capacity, or the judge’s successor in office.

2. The bond or financial guarantee shall be in an amount determined by the commissioners court to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.

3. The bond shall be executed with sureties as may be approved by the commissioners court. The county shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:

   A registration with the Secretary of State and be authorized to do business in Texas;
   B authorization to issue bonds in the amount required by the commissioners court; and
   C rating of at least B from Best’s Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.

4. The bond shall be conditioned upon construction or installation of water and wastewater facilities meeting the criteria established by Division 2 of this subchapter and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the commissioners court.

(c) Letter of credit. A letter of credit that is submitted in compliance with subsection (a) of this section shall meet the following requirements.

1. Any letter of credit submitted as a financial guarantee for combined amounts greater than $10,000 and less than $250,000 must be from financial institutions which meet the following qualifications.

   A Bank qualifications:
   i. must be federally insured;
   ii. Sheshunoff rating must be 10 or better and primary capital must be at least 6.0% of total assets; and
   iii. total assets must be at least $25 million.

   B Savings and loan association qualifications:
   i. must be federally insured;
   ii. tangible capital must be at least 1.5% of total assets and total assets must be greater than $25 million or tangible capital must be at least 3.0% of total assets if total assets are less than $25 million; and
   iii. Sheshunoff rating must be 30 or better.

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(b) Bonds. A bond that is submitted in compliance with subsection (a) of this section shall meet the following requirements.

1. The bond or financial guarantee shall be payable to the county judge of the county, in his official capacity, or the judge’s successor in office.

2. The bond or financial guarantee shall be in an amount determined by the commissioners court to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.

3. The bond shall be executed with sureties as may be approved by the commissioners court. The county shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:

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   i. must be federally insured;
   ii. tangible capital must be at least 1.5% of total assets and total assets must be greater than $25 million or tangible capital must be at least 3.0% of total assets if total assets are less than $25 million; and
   iii. Sheshunoff rating must be 30 or better.
(C) Other financial institutions qualifications:

(i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and

(ii) the investment instrument must be registered in the county’s name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.

(2) Any letter of credit submitted as a financial guarantee for combined amounts greater than $250,000 must be from financial institutions which meet the following qualifications.

(A) Bank qualifications:

(i) must be federally insured;

(ii) Sheshunoff rating must be thirty or better and primary capital must be at least 7.0% of total assets; and

(iii) total assets must be at least $75 million.

(B) Savings and loan association qualifications:

(i) must be federally insured;

(ii) tangible capital must be at least 3.0% of total assets and total assets must be greater than $75 million, or tangible capital must be at least 5.0% of total assets if total assets are less than $75 million; and

(iii) Sheshunoff rating must be 30 or better.

(C) Other financial institutions qualifications:

(i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and

(ii) the investment instrument must be registered in the county’s name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.

(3) The letter of credit shall list as sole beneficiary the county judge of the county, in his official capacity, or the judge’s successor in office, and must be approved by the county judge of the county. The form of the letter of credit shall be modeled after the form attached in Appendix 2B.

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(4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Division 2 of this subchapter and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the commissioners court.

(d) Financial guarantee. The county will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.

(e) Alternative to county accepting a financial guarantee. The county may approve a final plat under this section without receiving a financial guarantee in the name of the county if:

(1) the property being subdivided lies wholly within the jurisdiction of the county; and

(2) the property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and

(C) Other financial institutions qualifications:

(i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and

(ii) the investment instrument must be registered in the county’s name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.

(2) Any letter of credit submitted as a financial guarantee for combined amounts greater than $250,000 must be from financial institutions which meet the following qualifications.

(A) Bank qualifications:

(i) must be federally insured;

(ii) Sheshunoff rating must be thirty or better and primary capital must be at least 7.0% of total assets; and

(iii) total assets must be at least $75 million.

(B) Savings and loan association qualifications:

(i) must be federally insured;

(ii) tangible capital must be at least 3.0% of total assets and total assets must be greater than $75 million, or tangible capital must be at least 5.0% of total assets if total assets are less than $75 million; and

(iii) Sheshunoff rating must be 30 or better.

(C) Other financial institutions qualifications:

(i) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and

(ii) the investment instrument must be registered in the county’s name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.

(3) The letter of credit shall list as sole beneficiary the county judge of the county, in his official capacity, or the judge’s successor in office, and must be approved by the county judge of the county. The form of the letter of credit shall be modeled after the form attached in Appendix 2B.

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(4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Division 2 of this subchapter and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the commissioners court.

(d) Financial guarantee. The county will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.

(e) Alternative to county accepting a financial guarantee. The county may approve a final plat under this section without receiving a financial guarantee in the name of the county if:

(1) the property being subdivided lies wholly within the jurisdiction of the county; and

(2) the property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and
(3) the municipality has executed an interlocal agreement with the county that imposes the obligation on the municipality to:

(A) accept the bonds, letters of credit, or other financial guarantees, that meet the requirements of this section;

(B) execute the construction agreement with the subdivider; and

(C) assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

SOURCE: The provisions of this § 364.54 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

§ 364.55. Review and Approval of Final Plats

(a) Scope of review. The county will review the final plat to determine whether it meets the standards of Division 2 and the requirements of Division 3 of this subchapter.

(b) Disapproval authority. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under these rules.

(c) Prerequisites to approval. Final plat approval shall not be granted unless the subdivider has accomplished the following:

(1) dedicated the sites for the adequate water and sewerage facilities identified in the final plat to the appropriate retail public utility responsible for operation and maintenance of the facilities; and

(2) provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from the commission of the plans and specifications for such construction, including any change orders filed with these agencies; or

(3) obtained all necessary permits for the proposed water facilities and sewerage facilities (other than for OSPF permits on individual lots within the proposed subdivision) and has entered into a financial agreement with the county secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in Division 3 of this subchapter.

SOURCE: The provisions of this § 364.55 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203

§ 364.56. Time Extensions for Providing Facilities

(a) Reasonableness. The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if:

(1) any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with § 364.54 are submitted which will be effective for the period of the extension; and

(2) the court finds the extension is reasonable and not contrary to the public interest.

(3) the municipality has executed an interlocal agreement with the county that imposes the obligation on the municipality to:

(A) accept the bonds, letters of credit, or other financial guarantees, that meet the requirements of this section;

(B) execute the construction agreement with the subdivider; and

(C) assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

SOURCE: The provisions of this § 364.54 adopted to be effective February 10, 2000, 25 TexReg 800; amended to be effective February 10, 2004, 29 TexReg 1203
(b) Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.

(c) Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Division 2 of this subchapter.

SOURCE: The provisions of this § 364.56 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.57. Criteria for Subdivisions that Occurred Prior to September 1, 1989

(a) Authority and scope. This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989, and have not been platted or recorded. This section is in addition to the authority of the county to grant a delay or variance pursuant to Local Government Code § 232.043 or a rule of the county adopted pursuant to such provision.

(b) Purpose. It is the purpose of this section to promote the public health of the county residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the jurisdiction of this county, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the county.

(c) Required plat. In the event that the owner of tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the commissioners court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the commissioners court as provided in this section in lieu of the filing of a plat of the subdivision.

(d) Special criteria. The commissioners court may approve the plat of a residential lot which does not comply with the provisions of §§ 364.15(b) of this title (sale restrictions), 364.36 of this title (Setbacks), 364.37 of this title (Number of Dwellings per Lot), 364.52 of this title (Final Engineering Report), and 364.54 of this title (Financial Guarantees for Improvements) as applied to an individual subdivision lot if such approval is in harmony with the general purpose and intent of these rules so that the public health, safety, and welfare may be secured and substantial justice done.

(1) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.

(2) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the chapter, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the commissioners court may request to support the application, including:

(A) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;

(B) the name and address of the original subdivider or the subdivider’s authorized agent, if known;

(C) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and

(b) Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.

(c) Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Division 2 of this subchapter.

SOURCE: The provisions of this § 364.56 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.57. Criteria for Subdivisions that Occurred Prior to September 1, 1989

(a) Authority and scope. This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989 and have not been platted or recorded. This section is in addition to the authority of the county to grant a delay or variance pursuant to Local Government Code § 232.043 or a rule of the county adopted pursuant to such provision.

(b) Purpose. It is the purpose of this section to promote the public health of the county residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the jurisdiction of this county, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the county.

(c) Required plat. In the event that the owner of tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the commissioners court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the commissioners court as provided in this section in lieu of the filing of a plat of the subdivision.

(d) Special criteria. The commissioners court may approve the plat of a residential lot which does not comply with the provisions of §§ 364.15(b) of this title (sale restrictions), 364.36 of this title (Setbacks), 364.37 of this title (Number of Dwellings per Lot), 364.52 of this title (Final Engineering Report), and 364.54 of this title (Financial Guarantees for Improvements) as applied to an individual subdivision lot if such approval is in harmony with the general purpose and intent of these rules so that the public health, safety, and welfare may be secured and substantial justice done.

(1) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.

(2) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the chapter, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the commissioners court may request to support the application, including:

(A) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;

(B) the name and address of the original subdivider or the subdivider’s authorized agent, if known;

(C) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and
(D) a deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.

(3) Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the commissioners court that:

(A) the lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original subdivider;

(B) a plat was required for the subdivision, but has not been filed with the county by the subdivider legally obligated to file it;

(C) an existing, currently occupied residential dwelling is located on the lot;

(D) existing water and sewer services which comply with the minimum standards set forth herein are available to the lot; and

(E) the request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.

(e) Final determination. The commissioners court shall make the final decision on an application for a waiver, following review and recommendation by the county planning commission or department, if any. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved by the commissioners court, the county shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

SOURCE: The provisions of this § 364.57 adopted to be effective February 10, 2000, 25 TexReg 800

TITLE 31. NATURAL RESOURCES AND CONSERVATION
PART 10. TEXAS WATER DEVELOPMENT BOARD
CHAPTER 364. MODEL SUBDIVISION RULES
SUBCHAPTER B. MODEL RULES
DIVISION 4. ENFORCEMENT

§ 364.71. Oversight

The owner, by submitting a plat, acknowledges the authority of the county and state agencies to lawfully enter and inspect property for purposes of execution of their statutory duties. Such inspection will not release the owner from any obligation to comply with the requirements of these rules.

SOURCE: The provisions of this § 364.71 adopted to be effective February 10, 2000, 25 TexReg 800

§ 364.72. General Enforcement Authority of County

The provisions of this chapter are enforceable pursuant to the specific provisions hereof related to enforcement and state law including Water Code, Chapter 7 and §§ 16.352, 16.353, 16.3535, 16.354, and 16.3545, and Local Government Code, § 232.037 and § 232.080.

SOURCE: The provisions of this § 364.72 adopted to be effective February 10, 2000, 25 TexReg 800

(D) a deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.

(3) Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the commissioners court that:

(A) the lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original subdivider;

(B) a plat was required for the subdivision, but has not been filed with the county by the subdivider legally obligated to file it;

(C) an existing, currently occupied residential dwelling is located on the lot;

(D) existing water and sewer services which comply with the minimum standards set forth herein are available to the lot; and

(E) the request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.

(e) Final determination. The commissioners court shall make the final decision on an application for a waiver, following review and recommendation by the county planning commission or department, if any. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved by the commissioners court, the county shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

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SOURCE: The provisions of this § 364.72 adopted to be effective February 10, 2000, 25 TexReg 800
Senate Bill 712 and Manufactured Home Rental Communities

a. Editor's Note
b. Text of Section 232.007
c. Williamson County Order and Infrastructure Development Plan Regulations
Prior to the passage of the 76th Legislature’s Senate Bill 712 in 1999, Texas law stated that manufactured home rental communities were not subdivisions and were therefore exempt from county platting requirements. SB 712 amended Section 232.007, Local Government Code, and established conditions requiring manufactured home rental communities to comply with county infrastructure regulations. The statute is permissive and allows a county, by order, to establish minimum infrastructure standards for such communities outside the limits of a municipality. The statutes limits these standards to providing adequate drainage, a sufficient public or community water supply, access to sanitary sewer lines or adequate on-site sewage facilities, an accurate survey of the property (to include the proposed location of rental spaces, utility easements, and rights-of-way), and road and street specifications to provide access for fire and emergency vehicles.

Following the submission of an infrastructure development plan, the county engineer or the commissioners court designee must approve or reject the plan, in writing, within 60 days. If the county rejects the plan, it must provide written, specified reasons for the rejection. If the county does not meet the 60-day deadline, the plan is considered approved. Commissioners court may require inspection of the appropriate infrastructure during or upon completion and must issue a certificate of compliance as the inspection arrangement dictates.

In order to obtain utility services, to include water, sewer, gas, and electricity, Subsection (h) states the owner of the manufactured home rental community must provide the appropriate utility with a copy of the certificate of compliance. This subsection applies only to the following utilities: a municipality that provides utility service; a municipally owned or municipally operated utility that provides utility services; a public utility that provides utility services; a non-profit water supply or sewer service organized or operating under Chapter 67, Water Code, that provides utility services; a county that provides utility services; and, a special district or authority created by state law that provides utility service. Enforcement of this subsection of the statute appears to rest heavily on the cooperation between the appropriate county authority and these utility providers.

A commissioners court may not require minimum infrastructure standards that are more stringent than the county’s subdivision regulations. This provides a broad range of options: counties may require a bare minimum if they wish, or hold manufactured home rental communities to the same standard as other subdivisions, at least in the areas specified by the statute. The statute refers to “reasonable specifications” and “reasonable requirements” in the specified areas. What constitutes “reasonable” within the context of such requirements and specifications for a particular county should be determined with the benefit of competent legal and engineering expertise.

We include for your review a sample order from Williamson County adopting minimum infrastructure requirements for manufactured home rental communities.
§ 232.007. Manufactured Home Rental Communities

(a) In this section:

(1) "Manufactured home rental community" means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

(2) "Business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

(b) A manufactured home rental community is not a subdivision, and Sections 232.001-232.006 do not apply to the community.

(c) After a public hearing and after notice is published in a newspaper of general circulation in the county, the commissioners court of a county, by order adopted and entered in the minutes of the commissioners court, may establish minimum infrastructure standards for manufactured home rental communities located in the county outside the limits of a municipality. The minimum standards may include only:

(1) reasonable specifications to provide adequate drainage in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100-year flood plain;

(2) reasonable specifications for providing an adequate public or community water supply, including specifying the location of supply lines, in accordance with Subchapter C, Chapter 341, Health and Safety Code;

(3) reasonable requirements for providing access to sanitary sewer lines, including specifying the location of sanitary sewer lines, or providing adequate on-site sewage facilities in accordance with Chapter 366, Health and Safety Code;

(4) a requirement for the preparation of a survey identifying the proposed manufactured home rental community boundaries and any significant features of the community, including the proposed location of manufactured home rental community spaces, utility easements, and dedications of rights-of-way; and

(5) reasonable specifications for streets or roads in the manufactured rental home community to provide ingress and egress access for fire and emergency vehicles.

(d) The commissioners court may not adopt minimum infrastructure standards that are more stringent than requirements adopted by the commissioners court for subdivisions. The commissioners court may only adopt minimum infrastructure standards for ingress and egress access by fire and emergency vehicles that are reasonably necessary.
(e) If the commissioners court adopts minimum infrastructure standards for manufactured home rental communities, the owner of land located outside the limits of a municipality who intends to use the land for a manufactured home rental community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards adopted by the commissioners court under Subsection (c).

(f) Not later than the 60th day after the date the owner of a proposed manufactured home rental community submits an infrastructure development plan for approval, the county engineer or another person designated by the commissioners court shall approve or reject the plan in writing. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within the period prescribed by this subsection constitutes approval of the plan.

(g) Construction of a proposed manufactured home rental community may not begin before the date the county engineer or another person designated by the commissioners court approves the infrastructure development plan. The commissioners court may require inspection of the infrastructure during or on completion of its construction. If a final inspection is required, the final inspection must be completed not later than the second business day after the date the commissioners court or the person designated by the commissioners court receives a written confirmation from the owner that the construction of the infrastructure is complete. If the inspector determines that the infrastructure complies with the infrastructure development plan, the commissioners court shall issue a certificate of compliance not later than the fifth business day after the date the final inspection is completed. If a final inspection is not required, the commissioners court shall issue a certificate of compliance not later than the fifth business day after the date the commissioners court or the person designated by the commissioners court receives written certification from the owner that construction of the infrastructure has been completed in compliance with the infrastructure development plan.

(h) A utility may not provide utility services, including water, sewer, gas, and electric services, to a manufactured home rental community subject to an infrastructure development plan or to a manufactured home in the community unless the owner provides the utility with a copy of the certificate of compliance issued under Subsection (g). This subsection applies only to:

(1) a municipality that provides utility services;

(2) a municipally owned or municipally operated utility that provides utility services;

(3) a public utility that provides utility services;

(4) a nonprofit water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides utility services;

(5) a county that provides utility services; and

(6) a special district or authority created by state law that provides utility services.


(e) If the commissioners court adopts minimum infrastructure standards for manufactured home rental communities, the owner of land located outside the limits of a municipality who intends to use the land for a manufactured home rental community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards adopted by the commissioners court under Subsection (c).

(f) Not later than the 60th day after the date the owner of a proposed manufactured home rental community submits an infrastructure development plan for approval, the county engineer or another person designated by the commissioners court shall approve or reject the plan in writing. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within the period prescribed by this subsection constitutes approval of the plan.

(g) Construction of a proposed manufactured home rental community may not begin before the date the county engineer or another person designated by the commissioners court approves the infrastructure development plan. The commissioners court may require inspection of the infrastructure during or on completion of its construction. If a final inspection is required, the final inspection must be completed not later than the second business day after the date the commissioners court or the person designated by the commissioners court receives a written confirmation from the owner that the construction of the infrastructure is complete. If the inspector determines that the infrastructure complies with the infrastructure development plan, the commissioners court shall issue a certificate of compliance not later than the fifth business day after the date the final inspection is completed. If a final inspection is not required, the commissioners court shall issue a certificate of compliance not later than the fifth business day after the date the commissioners court or the person designated by the commissioners court receives written certification from the owner that construction of the infrastructure has been completed in compliance with the infrastructure development plan.

(h) A utility may not provide utility services, including water, sewer, gas, and electric services, to a manufactured home rental community subject to an infrastructure development plan or to a manufactured home in the community unless the owner provides the utility with a copy of the certificate of compliance issued under Subsection (g). This subsection applies only to:

(1) a municipality that provides utility services;

(2) a municipally owned or municipally operated utility that provides utility services;

(3) a public utility that provides utility services;

(4) a nonprofit water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides utility services;

(5) a county that provides utility services; and

(6) a special district or authority created by state law that provides utility services.

Order Adopting
Minimum Infrastructure Requirements for Manufactured Home Communities

The State of Texas } Know All Men By These Presents: 
County of Williamson }

That on this, the 16th day of November, A.D. 1999, the Commissioners Court of Williamson County, Texas, met in duly called and convened lawful Session at the County Courthouse in Georgetown, Texas, with the following members present:

John Doerfler, County Judge, Presiding,
Mike Heiligenstein, Commissioner Precinct One,
Greg Boatright, Commissioner Precinct Two, and
David Hays, Commissioner Precinct Three, and
Frankie Limmer, Commissioner Precinct Four

where, among other matters, came up for consideration and adoption the following Order:

Whereas, the Regular Session of the Seventy-sixth Legislature adopted Senate Bill 712, amending Section 212.007 of the Texas Local Government Code to give counties authority to adopt minimum infrastructure requirements for Manufactured Home Rental Communities;

Whereas, pursuant to such authority, the Williamson County Commissioners Court has held a public hearing and published notice in a newspaper of general circulation in such county;

Whereas, the Court has otherwise solicited information and advice from affected members of the public; and

Whereas, the Williamson County Commissioners Court finds that there is a public necessity to establish each of the following infrastructure requirements in order to adequately protect the public health, safety, and welfare,

Therefore be it Ordered, that the attached “Williamson County Infrastructure Requirements for Manufactured Home Communities” be, and are hereby, adopted by this Court, to take effect immediately and to apply to all Manufactured Home Communities for which construction is commenced on or after this date; and be it

Order Adopting
Minimum Infrastructure Requirements for Manufactured Home Communities

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Whereas, the Court has otherwise solicited information and advice from affected members of the public; and

Whereas, the Williamson County Commissioners Court finds that there is a public necessity to establish each of the following infrastructure requirements in order to adequately protect the public health, safety, and welfare,

Therefore be it Ordered, that the attached “Williamson County Infrastructure Requirements for Manufactured Home Communities” be, and are hereby, adopted by this Court, to take effect immediately and to apply to all Manufactured Home Communities for which construction is commenced on or after this date; and be it
Further Ordered, that County Judge John Doerfler be, and is hereby, authorized to sign this Order as the act and deed of Commissioners Court, and the County Clerk is directed to place this Order and the attached “Williamson County Infrastructure Requirements for Manufactured Home Communities” (which are incorporated herein by reference as fully and completely as if set out verbatim in the body hereof) in the Minutes of the Court.

The foregoing Order was lawfully moved by ________________, duly seconded by ________________, and duly adopted by the Commissioners Court on a vote of _____ members for the motion and _____ opposed.

John Doerfler, Williamson County Judge
Williamson County
Infrastructure Requirements for
Manufactured Home Communities

I. Definitions

(a) “Manufactured Home” means a structure falling within the definition of manufactured housing in Art. 5221f, Texas Civil Statutes Annotated.

(b) “Manufactured Home Community” means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, sold, or offered for rental, lease, or sale for the installation of manufactured homes for use and occupancy as residences. As used in this Order, this term shall include Manufactured Home Subdivisions and Manufactured Home Rental Communities, as defined below. A single Manufactured Home Community may be both a Manufactured Home Subdivision and a Manufactured Home Rental Community if multiple lots will be both sold and leased, in which event the community must comply with both relevant sets of regulations.

(c) “Manufactured Home Subdivision” means a Manufactured Home Community in which two or more of the spaces or lots are to be sold or offered for sale.

(d) “Sale” shall be construed to include any and all transactions in which legal, beneficial, or equitable ownership of the space or lot is transferred to another. It is immaterial whether such transfer occurs by deed, contract of sale, option contract, lease-purchase, long-term ground lease, or any other method. Without limitation to the foregoing, “sale” includes both (1) any rental or lease agreement for a term of 60 months or more and (2) any rental or lease agreement with a purchase option.

(e) “Manufactured Home Rental Community” means a Manufactured Home Community in which two or more spaces or lots are rented, leased, or offered for rent or lease for a term of less than 60 months without a purchase option.

II. Manufactured Home Subdivisions

Unless exempted by some provision of state law, Manufactured Home Subdivisions are “subdivisions” within the meaning of the Williamson County Subdivision Regulations and related rules. Such related regulations include (but are not limited) to the Williamson County Flood Plain Regulations and the Williamson County On-Site Sewage Disposal Facility Regulations. Manufactured Home Subdivisions must comply with all such regulations on the same basis as subdivisions that do not include manufactured homes.

Williamson County
Infrastructure Requirements for
Manufactured Home Communities

I. Definitions

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(b) “Manufactured Home Community” means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, sold, or offered for rental, lease, or sale for the installation of manufactured homes for use and occupancy as residences. As used in this Order, this term shall include Manufactured Home Subdivisions and Manufactured Home Rental Communities, as defined below. A single Manufactured Home Community may be both a Manufactured Home Subdivision and a Manufactured Home Rental Community if multiple lots will be both sold and leased, in which event the community must comply with both relevant sets of regulations.

(c) “Manufactured Home Subdivision” means a Manufactured Home Community in which two or more of the spaces or lots are to be sold or offered for sale.

(d) “Sale” shall be construed to include any and all transactions in which legal, beneficial, or equitable ownership of the space or lot is transferred to another. It is immaterial whether such transfer occurs by deed, contract of sale, option contract, lease-purchase, long-term ground lease, or any other method. Without limitation to the foregoing, “sale” includes both (1) any rental or lease agreement for a term of 60 months or more and (2) any rental or lease agreement with a purchase option.

(e) “Manufactured Home Rental Community” means a Manufactured Home Community in which two or more spaces or lots are rented, leased, or offered for rent or lease for a term of less than 60 months without a purchase option.

II. Manufactured Home Subdivisions

Unless exempted by some provision of state law, Manufactured Home Subdivisions are “subdivisions” within the meaning of the Williamson County Subdivision Regulations and related rules. Such related regulations include (but are not limited) to the Williamson County Flood Plain Regulations and the Williamson County On-Site Sewage Disposal Facility Regulations. Manufactured Home Subdivisions must comply with all such regulations on the same basis as subdivisions that do not include manufactured homes.
III. Manufactured Home Rental Communities

(a) The owner of land located in Williamson County outside the limits of a municipality who intends to use the land for a Manufactured Home Rental Community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards that are set out below in Section IV.

(b) Prior to beginning any construction, the owner must submit the plan to the Williamson County Engineer for approval. Construction may not begin before the plan is approved.

(c) Not later than the 60th day after the date the plan is submitted, the County Engineer shall approve or reject the plan in writing. If the plan is approved, construction may begin immediately. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within the period prescribed by this subsection constitutes approval of the plan.

(d) The County Engineer, as well as any other person designated by either the County Engineer or the Commissioners Court, may inspect the infrastructure at any reasonable time during construction, and the owner and his agents shall not hinder such inspections.

(e) On completion of construction, the owner shall confirm in writing to the County Engineer that the infrastructure is complete, and a final inspection must be completed not later than the second business day after the date of notice. If the inspector determines that the infrastructure does not fully comply with the plan, the owner shall be given an opportunity to cure the defects. On completion of curative construction, the owner should request another inspection.

(f) When the inspector determines that the infrastructure complies with the plan, the Commissioners Court shall issue a Certificate of Compliance not later than the fifth business day after the day the final inspection is completed.

(g) A utility may not provide utility services, including water, sewer, gas, and electric services, to a Manufactured Home Rental Community or to a manufactured home in the community unless the owner provides the utility with a copy of the Certificate of Compliance.

IV. Infrastructure Requirements

The infrastructure development plan for a Manufactured Home Rental Community must include each of the following:

(a) A survey identifying the proposed community’s boundaries and any significant features of the community, including the proposed location of lots or spaces, utility easements, and dedication of rights-of-way. The survey may also contain features to help provide the additional information required by this Order.
(b) Reasonably specified plans to provide adequate drainage in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100-year flood plain.

(c) Reasonably specified plans to provide an adequate public or community water supply, including specifying the location of supply lines, in accordance with Subchapter C, Chapter 341, Health and Safety Code. If water is to be provided by a utility, a certification by the utility that water is available for each of the planned spaces or lots must be attached to the plan.

(d) Either

(1) Reasonably specified plans to provide access to sanitary sewer lines, including specifying the location of sanitary sewer lines. If sewage treatment is to be provided by a utility, a certification by the utility that service for each of the planned spaces or lots is available must be attached to the plan. If the sewage is to be treated in some other way, approval by the relevant government agency that is to license or inspect the treatment facilities must be attached; or

(2) Reasonably specified plans for providing on-site sewage facilities in accordance with Chapter 366, Health and Safety Code. Approval by the Environmental Services Division of the Williamson County and Cities Health District must be attached to the plan.

(e) Reasonably specified plans for streets or roads in the Manufactured Home Rental Community to provide ingress and egress for fire and emergency vehicles.

(1) The Commissioners Court finds that it is reasonably necessary that streets in these communities should be built to the same standards (but to no more stringent standard) than the requirements adopted by the Court for subdivisions.

(2) The road design and construction standards contained in the Williamson County Subdivision Regulations, as amended from time to time, are therefore incorporated by reference into this Order as fully and completely as if set out verbatim herein. The street or road specifications in the infrastructure development plan must comply with those standards to the maximum degree practicable.

(3) Commissioners Court (but not the County Engineer) may grant a variance when strict application of these standards would work an unusual hardship.

(f) The road specifications must include adequate provision for roadway maintenance to guarantee future ingress and egress by fire and emergency vehicles. It may meet this requirement by either

(1) dedicating the roadways to the public. The County will accept dedicated rights-of-way for public maintenance only if their current condition complies with all county standards, and only upon the earlier of (i) two years from issuance of the certificate of completion or (ii) posting of an adequate two-year maintenance bond. (or)
(2) providing an adequate financing mechanism for private maintenance. The plan must contain a covenant that every future lease or rental agreement will inform the tenants that the County will never maintain any road or street in the community under any circumstances.

V. Other Regulations

Persons developing Manufactured Home Communities should be aware that this Order is not the exclusive law or regulation controlling development in Williamson County. The following is only a partial list of regulations that may apply.

(a) Manufactured Home Subdivisions are subject to the Williamson County Subdivision Regulations. All Manufactured Home Communities are subject to county regulations of general applicability, such as the Nuisance Abatement Regulations.

(b) The Williamson County and Cities Health District administers the Williamson County Flood Plain Order, the Williamson County On-Site Sewage Disposal Facility Regulations, and the Edwards Aquifer Regulations, among other rules.

(c) If the Manufactured Home Community is located within the extraterritorial jurisdiction of a municipality, it is subject to certain municipal ordinances. For example, each Manufactured Home Subdivision must receive approval under the municipal subdivision ordinance before the plat may be recorded.

(d) Other agencies with regulatory authority that may apply to a Manufactured Home Community include, but are not limited to, the Brushy Creek Water Improvement and Control District, several Emergency Services Districts, the Texas Natural Resources Conservation Commission and Public Utilities Commission, the United States Parks and Wildlife Service and Environmental Protection Agency, and the U.S. Army Corps of Engineers.

Issuance of a Certificate of Compliance under this Order does not indicate compliance with any of these other requirements.

VI. Penalties

(a) Violation of this Order will result in the denial of utility service.

(b) The requirements of this Order have been established by and adopted by the Williamson County Commissioners Court under Chapter 232 of the Texas Local Government Code and all the civil and criminal penalties applicable under that chapter shall apply to violations of this Order.
Appendices

a. TCEQ OSSF County Information Packet
b. TWDB National Flood Insurance Program Sample Resolution
c. Takings Impact Assessment Form
COUNTY OF §
STATE OF TEXAS §

AFFIDAVIT

Before me, the undersigned authority, personally appeared who, being by
me duly sworn, deposed as follows:

My name is ________________, I am of sound mind, capable of making this
affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of the County Clerks Office for the
County of ______________, Texas. Attached hereto are _____________________
pages of records known as (Order) ___________. The records are kept by me as
County Clerk, County of ______________, in the regular course of business
with knowledge of the act, event, condition, opinion, or diagnosis, recorded
to make the record or to transmit information thereof to be included in such
record; and the record was made at or near the time or reasonably soon
thereafter. The record attached hereto is the original or exact duplicate of
the official record.

___________________________

BEFORE ME, the undersigned authority, a Notary Public in and for said County,
Texas, on this day personally appeared ________________, known to me to be
the person whose name is subscribed to the foregoing instrument and
acknowledge to me that she executed the same for the purposes and
consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ______ day of ______, 20__.
(SEAL)

Notary/Public, State of Texas
My commission expires:

REVIEWED
PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code (THSC), Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of ____________ County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of ____________, Texas; and

WHEREAS, the Commissioners Court of ____________ County, Texas finds that the use of on-site sewage facilities in ____________ County, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Commissioners Court of ____________ County, Texas has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in ____________ County, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF ____________ COUNTY, TEXAS:

SECTION 1. THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

SECTION 2. THAT the use of on-site sewage facilities in ____________ County, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Order for ____________ County, Texas be adopted entitled "On-Site Sewage Facilities", which shall read as follows:
AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-site Sewage Facility (OSSF) Order for ___________________ County.

SECTION 5. CHAPTER 366.

The County of ____________________________, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce Chapter 366 of the THSC and Chapters 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in Section 8 of this Order.

SECTION 6. AREA OF JURISDICTION.

The Rules shall apply to all the area lying in ___________________ County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of ___________________ County, Texas must comply with the Rules adopted in Section 8 of this Order.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities are hereby adopted, and all officials and employees of ___________________ County, Texas having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

SECTION 9. INCORPORATION BY REFERENCE.

The Rules, 30 TAC Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.

AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

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This Order repeals and replaces any other On-site Sewage Facility (OSSF) Order for ___________________ County.

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SECTION 9. INCORPORATION BY REFERENCE.

The Rules, 30 TAC Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.
SECTION 10. AMENDMENTS. (OPTIONAL)

The County of _________________________, Texas wishing to adopt more stringent Rules for its OSSF Order understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by County, Texas:

(A) (More stringent requirement.) (Each more stringent requirement must be justified based on greater public health and safety protection.)

(B)

(C)

SECTION 10 or 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17)) of County, Texas, must be certified by the TCEQ before assuming the duties and responsibilities.

SECTION 11 or 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to County, Texas. A fee of $10 will also be collected for each on-site sewage facility permit to be paid to the On-Site Wastewater Treatment Research Council as required by the THSC, Chapter 367.

SECTION 12 or 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of County, Texas.

SECTION 13 or 14 ENFORCEMENT PLAN

The County of Texas clearly understands that, at a minimum, it must follow the requirements in 30 TAC § 285.71 Authorized Agent Enforcement of OSSFs.

This Order adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapter 30, Subchapters A and G, and Chapter 285.

SECTION 14 or 15. SEVERABILITY

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

SECTION 10. AMENDMENTS. (OPTIONAL)

The County of _________________________, Texas wishing to adopt more stringent Rules for its OSSF Order understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by County, Texas:

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SECTION 15 or 16. RELINQUISHMENT OF ORDER

If the Commissioners Court of _____________ County, Texas decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the Commissioners Court, as the authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC § 285.10 (d) (1) through (4).

After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

SECTION 16 or 17. EFFECTIVE DATE:

This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS ________ DATE OF ________________, 20__.

APPROVED:

(SEAL) County Judge

ATTEST:

County Clerk

SECTION 15 or 16. RELINQUISHMENT OF ORDER

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SECTION 16 or 17. EFFECTIVE DATE:

This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS ________ DATE OF ________________, 20__.

APPROVED:

(SEAL) County Judge

ATTEST:

County Clerk
RESOLUTION NO.__________________

STATE OF TEXAS:

COUNTY OF:

WHEREAS, certain areas of County are subject to periodic flooding, causing serious damages to properties within these areas; and

WHEREAS, under the National Flood Insurance act of 1968, as amended, residents of County can purchase Federally subsidized flood insurance if the County qualifies for, and participates in the National Flood Insurance Program; and

WHEREAS, it is the intent of this Commissioners Court to qualify for participation in the National Flood Insurance Program and to require the recognition and evaluation of flood hazards for all proposed developments within the identified floodplains of County; and

WHEREAS, the Commissioners Court of County has the legal authority to adopt and enforce floodplain management criteria to reduce future flood losses pursuant to Subchapter I, Section 16.315 of the Texas Water Code;

NOW, THEREFORE, BE IT RESOLVED, that this Commissioners Court hereby:

1. Assures the Federal Emergency Management Agency it will enact as necessary, and maintain in force in those areas having flood hazards, adequate floodplain management standards with effective enforcement provisions consistent with the minimum criteria set forth in Section 60.3 of the National Flood Insurance Program Regulations; and

2. Vests the County Judge with the responsibility, authority, and means to:
   a. Assist the Administrator, at his request, in his delineation of the limits of the areas having special flood hazards.
   b. Provide such information as the Administrator may request concerning present uses and occupancy of the floodplain.
   c. Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map, and identify floodplain areas, and cooperate with neighboring political subdivisions with respect to management of adjoining floodplain areas in order to prevent aggravation of existing flood hazards.
d. Submit on as requested by the Administrator, a biennial report to the Administrator on the progress made during the past year within the County in the development and implementation of floodplain management measures.

e. Upon occurrence, notify the Administrator in writing whenever a community incorporates and the County no longer has authority to enforce floodplain management measures within the newly established corporate limits. If possible, include within such notification a copy of the County’s flood hazard boundary map clearly delineating the new corporate limits and provide a mailing address for the newly incorporated city.

3. Appoints ________________ to maintain for public inspection and to furnish, upon request, any certificates of flood-proofing, and information on the elevation (in relation to mean sea level) of the level of the lowest habitable floor of all new and substantially improved structures located within the identified floodplain of ________________ County. The information should include whether or not such structures contain a basement, the elevation of the basement, and if the structure has been flood-proofed, the elevation to which the structure was flood-proofed.

NOW, THEREFORE, on this _________day of __________ , 19__, in a meeting of the Commissioners Court of __________ County, Texas, duly convened and acting in its capacity as governing body of __________ County, the following members being present:

_______________________________________________________County Judge
_______________________________________________________Commissioner, Precinct No. 1
_______________________________________________________Commissioner, Precinct No. 2
_______________________________________________________Commissioner, Precinct No. 3
_______________________________________________________Commissioner, Precinct No. 4

On motion of Commissioner ____________________________, seconded by Commissioner ____________________________, duly put and carried, this Resolution is hereby adopted.

The vote of the Commissioners Court on this matter was as follows:

Voting AYE:  
Voting NAY:
STATE OF TEXAS:

COUNTY OF:

I, ______________________ County Clerk and Ex officio Clerk of the Commissioners Court, do hereby certify that the above and foregoing is a true and correct copy of a Resolution made and entered by the Commissioners Court in regular session, on the__________ day of__________, 19___, as it appears on record in the Minutes of said Court, Volume _____, Page _______.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This__________ day of ______, 19__.
Allison, Bass & Associates, L. L. P
Revised (2000) TIA Form

TAKINGS IMPACT ASSESSMENT

Use this form to insure that TIAs are properly performed.
Follow it step by step, attaching extra sheets as required.

Identify the Proposed Action and Give a Brief Description: _____________

County Department: _______________________________________________________
Contact Person: ___________________________________ Phone: ________________

I. Stated Purpose

On a separate sheet of paper, state briefly the purpose of the proposed action. In simple terms, explain what the county would accomplish by taking the proposed action. This explanation generally will be not more than one paragraph.

II. The Nature of the Action

A takings impact assessment is required only for two types of governmental actions. State whether the proposed action is one of the following:

1) the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure;

or

2) an action that imposes a physical invasion or requires a dedication of private real property;

Example: Paying bills would not typically be considered “adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline or similar measure.” Considering a proposed load limit for a bridge typically would be.

Yes________  No_______

If you answered “yes” to this question, go to Section III. If you answered “no”, this TIA has been completed. Check “Not a covered Action” in Section VIII.

Allison, Bass & Associates, L. L. P
Revised (2000) TIA Form

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Follow it step by step, attaching extra sheets as required.

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Example: Paying bills would not typically be considered “adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline or similar measure.” Considering a proposed load limit for a bridge typically would be.

Yes________  No_______

If you answered “yes” to this question, go to Section III. If you answered “no”, this TIA has been completed. Check “Not a covered Action” in Section VIII.

If you answered “yes” to this question, go to Section III. If you answered “no”, this TIA has been completed. Check “Not a covered Action” in Section VIII.
III. Potential Effect on Private Property

1. Does the county action require a physical invasion, occupation or dedication of real property?
   Yes_____   No_____

2. Does the county action limit or restrict a real property right, even partially or temporarily?
   Yes_____   No_____

If you answered “yes” to either question, go to Section IV. If you Answered “no” to both, this TIA has been completed. Check “No Impact on Private Real Property” in Section VIII.

IV. Exemptions

If you answer yes to any question, attach a written explanation to this checklist

1. Is the action a formal exercise of the power of eminent domain?
   Yes_____   No_____

2. Is the action taken to fulfill an obligation mandated by state or federal law?
   Yes_____   No_____

3. Is the action taken to prohibit or restrict a public or private nuisance?
   Yes_____   No_____

4. Is the action taken to prevent a grave and immediate threat to life or property?
   Yes_____   No_____

5. Is the action 1) taken in response to a real and substantial threat to public health and safety, 2) designed to significantly advance the health and safety purpose, and 3) one that does not impose a greater burden than necessary to achieve the health and safety purpose?
   Yes_____   No_____
6. Is the action taken to regulate construction in a floodplain?
   Yes_____   No_____  

7. Is the action taken to regulate on-site sewage facilities?
   Yes_____   No_____  

8. Is the action taken pursuant to the county’s statutory authority to prevent waste or protect rights of owners of interest in groundwater?
   Yes_____   No_____  

9. Does the action simply discontinue or modify a program or regulation that provided a benefit which does not rise to the level of a recognized interest in private real property.
   Yes_____   No_____  

If you answered “no” to all questions in Section IV, provide the information and analysis requested in sections V, VI, and VII, using additional paper as necessary to answer the questions. Then, attach any additional sheets to this document and check “Proposed Action Fully Assessed for Impact on Private Property” in Section VIII. If you answered “yes” to any question in Section III, check “Proposed Action is Exempt” in Section VIII, below. If you are certain that the exemption applies, this TIA is completed. However, if you have any doubt about the applicability of an exemption, complete V, VI, and VII.

V. Analysis of Purpose, Burdens and Benefits

A. Referring to the purpose of the county action in Section I above, state how the action achieves or advances its purpose.

B. Describe the benefits to society resulting from the county action.

C. Describe the burdens that may be imposed on private real property by the county action.

For example, if the action will result in a physical invasion, occupation or dedication of real property, describe the extent and duration of the invasion, occupation or dedication. If the action restricts or limits the use or enjoyment of real property, describe the type of property right restricted and how it is restricted. In assessing the proposed action for its potential to burden private real property, consider the following:
1. Whether the proposed action will result indirectly or directly in a permanent or temporary physical occupation of private real property;
2. Whether the proposed action requires a property owner to dedicate property or grant an easement;
3. Whether the proposed action deprives the owner of all economically viable use of his property;
4. Whether the proposed action denies the owner the right to possess his real property, enjoy it, exclude others from it or sell it, and
5. Whether the proposed action will serve to reduce the market value of the owner’s property.

VI. Alternatives
A. Describe alternative actions that could accomplish the same purpose as the proposed action.
B. Would these alternative impose a lesser burden on the property which is the subject of the proposed action?

VI. Potential Impact on Value
A. Will the county action reduce the market value of any parcel of private real property by 25% or more?

   Yes_____ No_____

   Please explain how you reached this conclusion, including whether a real estate appraiser or Other expert consultant was consulted.

If the answer to Question A is “Yes”, the proposed action could constitute a taking of the affected property. The county should estimate the amount that the property value will be reduced, and consider that prior to taking the proposed action.

VIII. Conclusion:
   ________ Not a Covered Action
   ________ No Impact on Private Real Property
   ________ Proposed Action is Exempt
   ________ Proposed action Fully Assessed for Potential Impact on Private Property.