



**AS AMENDED BY THE COMMISSIONERS COURT
OF POLK COUNTY, TEXAS ON DECEMBER 11, 2007
TO BE EFFECTIVE JANUARY 1, 2008**

Further amended as follows;

Addendum 1 – effective May 1, 2009 – Adoption of Texas Water Development Board Model Rules relating to water and waste water services.

Addendum 2 – effective February 14, 2012 – Exception to platting requirement for (certain) Single Tract Conveyance

Addendum 3 – effective April 1, 2012 – Developer/Applicant responsible for costs relating to review & inspection by County Engineer pursuant to LGC232.0021.

TABLE OF CONTENTS

REVISIONS AND ADDENDUMS

	FORM OF ADOPTION	1
I.	PURPOSE	4
II.	DEFINITIONS	4
III.	PLATTING PROCEDURE	7
IV.	RE-SUBDIVISIONS	13
V.	ROAD AND DRAINAGE CONSTRUCTION	14
VI.	ROAD MAINTENANCE.....	16
VII.	PRIVATE SUBDIVISIONS.....	18
VIII.	BUILDING SETBACKS	19
IX.	VARIANCES	20
X.	PENALTIES	20

APPENDIX A - PLATTING GUIDELINES

A.1	Form of Sale	22
A.2	Grandfather Clause	22
A.3	Commercial Development.....	22
A.4	Re-subdivision	22
A.5	Access to Public Road/Restriction on Private Roads.....	23
A.6	Size of Lot.....	23
A.7	Adjacent Lots.....	23
A.8	Family Grants	24
A.9	Phased Subdivisions	24
A.10	Property-line Adjustments.....	24
A.11	Partial Financing.....	25

A.12	Foreclosure	25
A.13	Partition.....	25
A.14	Agricultural Use.....	25
A.15	Sale to Veterans	26
A.16	Sale by State Government	26
A.17	Sale of Floodplain by Government.....	26
A.18	Documentation.....	26

APPENDIX B - ENGINEERING GUIDELINES

B.1	Lot Size.....	27
B.2	Road Alignments	27
B.3	Minimum Road Requirements.....	28
B.4	Construction: General	30
B.5	Sub-grade.....	31
B.6	Base Material	32
B.7	Wearing Surface	32
B.8	Concrete	33
B.9	Street Names and Markers.....	33
B.10	Drainage and Flood Control	34
B.11	Driveways	36

APPENDIX C - PLAT NOTES

C.1	Road Widening Easements.....	37
C.2	Owners Responsibilities	37
C.3	Lien Free Right-of-Way	38
C.4	County Judge's Approval	38
C.5	County Clerk's Approval.....	38
C.6	Health Department Approval.....	38
C.7	Mailboxes	39
C.8	Form of Dedication for Individual or Individuals	40
C.9	Form of Dedication for Corporations	46

Texas Water Development Board Model Rules	51
(for water and waste water services)	

STATE OF TEXAS

COUNTY OF POLK

**ORDER ADOPTING AN AMENDMENT TO THE POLK COUNTY
SUBDIVISION RULES AND REGULATIONS**

WHEREAS, the Polk County Commissioners Court possesses authority to adopt rules governing plats and subdivisions of land within the unincorporated area of Polk County;

WHEREAS, the Polk County Commissioners Court has adopted rules and regulations governing plats and subdivisions of land within the unincorporated area of Polk county to promote the health, safety, morals, or general welfare of Polk County and the safe, orderly, and healthful development of the unincorporated area of Polk County;

WHEREAS, the Polk County Commissioners Court adopted platting guidelines, Engineering Guidelines and Plat Note requirements, incorporated in the Polk County Subdivision Rules and Regulations as Appendix A, B and C and Texas Water Development Board Model Rules, and thus requiring compliance with said Rules and Regulations.

WHEREAS, the Polk County Commissioners Court possesses authority, under Local Government Code § 232.0021, to impose a fee to cover the cost of the county's review of a subdivision plat and inspection of street, road, and drainage improvements to ensure compliance with stated requirements within the scope of Local Government Code Chapter 232 and the Polk County Subdivision Rules and Regulations;

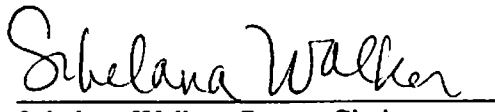
ACCORDINGLY, it is hereby ORDERED that the guidelines incorporated in the Polk County Subdivision Rules and Regulations are amended, as follows: "All costs associated with review by the County's designated Engineer of matters relating to the requirements set out within the Polk County Subdivision Rules and Regulations shall be the responsibility of the developer or applicant, who shall

provide evidence of payment made in full to the County's designated Engineer as a part of the application documentation submitted to the Commissioners Court."

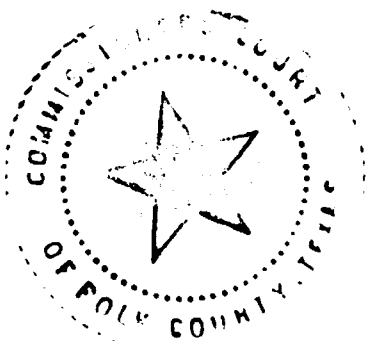
This Amendment to the Polk County Subdivision Rules and Regulations shall be effective upon publication of the attached notice in a newspaper of general circulation in the county.

ADOPTED by a vote of **ALL** ayes and **NO** nays on the 27th day of March, 2012.

ATTEST:


Schelana Walker, County Clerk


John P. Thompson, County Judge



STATE OF TEXAS

COUNTY OF POLK

**ORDER ADOPTING AN AMENDMENT TO THE POLK COUNTY
SUBDIVISION RULES AND REGULATIONS**

WHEREAS, the Polk County Commissioners Court possesses authority to adopt rules governing plats and subdivisions of land within the unincorporated area of Polk County;

WHEREAS, the Polk County Commissioners Court has adopted rules and regulations governing plats and subdivisions of land within the unincorporated area of Polk county to promote the health, safety, morals, or general welfare of Polk County and the safe, orderly, and healthful development of the unincorporated area of Polk County;

WHEREAS, the Polk County Commissioners Court adopted platting guidelines, incorporated in the Polk County Subdivision Rules and Regulations as Appendix A, stating when the division of an existing tract will be considered by the Court to be a subdivision requiring the filing of a plat by law, and thus requiring compliance with said Rules and Regulations.

WHEREAS, the Polk County Commissioners Court possesses authority, under Local Government Code § 232.0015(a), to further define and classify specific divisions of land that need not require platting, which are otherwise within the scope of Local Government Code Chapter 232 and the Polk County Subdivision Rules and Regulations;

ACCORDINGLY, it is hereby ORDERED that the platting guidelines incorporated in the Polk County Subdivision Rules and Regulations are amended, as follows: "The following division of an existing tract will not be considered by the County to be a subdivision requiring the filing of a plat: The conveyance of a single tract, provided that no other conveyance from the parent tract has been made in the past twelve months, unless the conveyance constitutes the residual of the parent tract."

This Amendment to the Polk County Subdivision Rules and Regulations shall be effective upon publication of the attached notice in a newspaper of general circulation in the county.

ADOPTED by a vote of ALL ayes and NO nays on the 14th day of February, 2012.

ATTEST:

Shelana Walker
County Clerk

Bob Willis
~~County Judge~~

Commissioner Bob Willis, presiding



ADDENDUM 1 – Effective May 1, 2009 - to the Polk County, Texas Subdivision Regulations, Adopting the Texas Water Development Board Model Subdivision Rules, Minimum Standards, Subchapter A and B (Counties) and Appendices as attached hereto beginning as page 51.

The purpose of these rules is to promote public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of Polk County, and to apply the minimum state standards for water and wastewater facilities to these subdivisions.

The Polk County Subdivision Regulation are amended and revised as follows;

Page 3 – Form of Adoption

- 4.. The Model Subdivision Rules will apply only to subdivisions of land into 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. The Model Subdivision Rules will govern requirements for water and waste water facilities only. All other subdivision infrastructure and platting requirements will be governed by the existing Polk County Subdivision Regulations dated January 1, 2008.

If any conflicts in requirements exist, then the Model Subdivision Rules will apply.

Section III; Page 8 - Platting Procedure

- 3.1.10 See also the Texas Water Development Board Model Subdivision rules.

Approved by the Polk County Commissioners Court on March 12, 2009.


John P. Thompson, County Judge

**POLK COUNTY SUBDIVISION RULES AND REGULATIONS
AS AMENDED BY THE COMMISSIONERS COURT
OF POLK COUNTY, TEXAS ON DECEMBER 11, 2007 TO BE
EFFECTIVE JANUARY 1, 2008**

THE STATE OF TEXAS §
 §
COUNTY OF POLK §

ON THIS THE 11th day of December, 2007, the Commissioners Court of Polk County, Texas, convened at the Courthouse of the City of Livingston, Texas with the following members present, to wit:

John P. Thompson	County Judge
Bob Willis	Commissioner, Precinct 1
Ronnie Vincent	Commissioner, Precinct 2
James J. Purvis	Commissioner, Precinct 3
Tommy Overstreet	Commissioner, Precinct 4

and, among other proceedings had the following order passed:

WHEREAS, the Commissioners Court of Polk County, Texas, acting pursuant to Section 232.003 of the Texas Local Government Code adopted subdivision regulations governing the subdivision of land. The Commissioner Court of Polk County, Texas now considers the matter and deems it appropriate to enter its Order adopting the following regulations governing the subdivision of land based on legislative amendments to Chapter 232 of the Texas Local Government Code; and

WHEREAS, the Commissioners Court of Polk County deems it necessary to adopt a set of rules and regulations stipulating the conditions under which the Court, in the future, will approve plats of subdivisions for recording, in order to assist the County in providing for the

safety of the public, in protecting the health of the public, and in overseeing the welfare of the public;

NOW, THEREFORE BE IT ORDERED BY THE COMMISSIONERS COURT OF POLK COUNTY that the following rules and regulations be amended and adopted as conditions precedent to the Court approving plats of subdivision for recording effective this date.

1. These rules, regulations and requirements are subject to changes, amendment, or alteration without notice, whenever the Court in its judgment deems it to be in the best interest of the public. In those cases where it is not practical to meet these requirements, the developer will submit necessary data so that consideration may be given by the Commissioners Court in regular or called meeting in order to grant a waiver of specific requirements.
2. These rules, regulations and requirements, and any and all future additions thereto and changes thereof, will be binding on all new subdivisions or re-subdivisions in Polk County that are not within the legal jurisdiction of any incorporated city or town in Polk County. Said rules, regulations and requirements shall apply in any subdivision, whether dedications therein are intended for private or public use. Subdivisions and re-subdivisions located within the statutory extraterritorial jurisdiction of cities, towns, and villages are subject to the provisions of Interlocal Agreements between the County and said cities, towns and villages; and must be submitted to, and approved by, this Court or its representative, if required by said Interlocal Agreements.

3. The procedure for receiving approval for, and the filing of, subdivision and re-subdivision plats, and for acceptance of the subdivision, shall be as outlined in the attached "Polk County Subdivision Regulations."

POLK COUNTY SUBDIVISION REGULATIONS

I. PURPOSE

These regulations have been prepared in general to aid in the orderly development of Polk County, Texas, and provide guidelines which will lead to a desirable environment. Specifically they have been prepared for the following purposes:

1.1 To furnish the developer with guidance and assistance in the expedient preparation and approval of his or her plat;

1.2. To protect the citizens of Polk County by insuring minimum subdivision and development guidelines for residential, commercial and industrial subdivisions;

1.3. To provide for the welfare of the public by providing guidelines for the location, design, and improvements and other features that provide for the safety of the general public;

1.4. To prevent Polk County commissioners from being burdened with substandard streets or roads in the future.

II. DEFINITIONS

2.1 Subdivision – Defined by Section 232.001 of the Texas Local Government Code as “The division of a tract of land into two or more parts to lay out: (1) a subdivision of the tract, including additions; (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.” The Polk County Commissioners Court has adopted platting guidelines, incorporated in these regulations as Appendix A, stating when they require owners to file a plat for a subdivision.

- 2.2 Street or Road – The term “street” or “road” are interchangeable and mean a vehicular way or a way for vehicular traffic and are used to describe all vehicular ways regardless of any other designation they may have. Streets and roads shall be dedicated to the public except as indicated in Section 7. The landowner may dedicate either the fee ownership in the land or an easement for street, drainage, and utility purposes, at the landowners option.
- 2.3 Arterial Streets or Roads – Arterial streets or roads are those that are principally regional in nature and are used for through or heavy traffic and shall be divided into two classifications;
- 2.3.1 Streets or roads which will serve vehicular traffic beyond the limits of the subdivision; and/or connect one collector or arterial with one or more collectors or arterials.
- 2.3.2 Streets or roads which are existing county roads, are at least one mile in length, and carry a numerical designation.
- 2.4 Collector streets and roads- are those which connect arterial streets or roads with local streets or roads.
- 2.5 Local streets or roads – are those which principally provide direct access to lots within the subdivision.
- 2.6 Urban street - For the purpose of this order, an urban street is any street situated such that the spacing of driveways is less than 100 feet apart for a distance of ¼ of a mile. This distance does not apply to a subdivision using curb and gutter. Any curb and gutter street will be considered an urban street.
- 2.7 Rural Street- For the purpose of this ordinance, a rural street is any street situated such that the spacing of driveways is greater than 100 feet apart.

- 2.8 Precinct Commissioner- All references in these regulations to a “Precinct Commissioner” shall be construed to refer to the Polk County Commissioner in whose precinct the subdivision is located. If the subdivision is located in more than one precinct, approvals affecting the subdivision as a whole shall be obtained from all the affected commissioners.
- 2.9 Minimum Requirement- Requirements when defined as minimum shall be the minimum acceptable requirements. Such requirements may be increased by the county due to issues pertaining to each unique subdivision.
- 2.10 Owner- All references in these regulations to an “Owner” shall be construed to refer to the person or persons possessing title and/or lien to the property to be subdivided. This can also refer to the owner’s surveyor, engineer, lawyer, or planner who has been given authority to represent the owner.
- 2.11 Preliminary Plat – A map or drawing of a proposed subdivision meeting the requirements of Section 3.2. This map, at the discretion of the county, is to show the proposed improvements to all the owner’s adjacent property.
- 2.12 Final Plat – A map or drawing of a proposed subdivision prepared in a manner suitable for recording in the County records and prepared in conformance with the conditions of preliminary approval previously granted by the Commissioners’ Court and meeting the requirements of Section 3.3.
- 2.13 Developer – any owner of property who wishes to divide it into two or more smaller tracts.
- 2.14 Parent Tract – The original tract owned by the developer prior to any division of the property.

- 2.15 Daughter Tract – Any of the tracts created by division of a parent tract, including the remainder of the parent tract itself.
- 2.16 County Engineer – All references in these regulations to the “County Engineer” shall be construed to refer to the Polk County Engineer or any County Officer or Employee designated by the Polk County Commissioners Court.

III. PLATTING PROCEDURE

- 3.1 The platting procedure for subdivisions within Polk County will be as follows:
- 3.1.1 Prior to any subdivision of land and any official submittal of a plat for review, it is recommended that the Owner set a meeting with the Precinct Commissioner and the County Engineer. The Owner shall present a preliminary plat showing the street alignments and the lots. The Precinct Commissioner and the County Engineer will provide general comments and requirements to the Owner. Based upon these comments and requirements, the owner or his representative will submit one copy of the revised preliminary plat of the subdivision to the Precinct Commissioner’s office and seven copies to the County Engineer’s Office.
- 3.1.2 The County Commissioner will review the plat and forward any additional comments and recommendations to the County Engineer.
- 3.1.3 The County Engineer will review plans for compliance with the Polk County Subdivision Regulations.
- 3.1.4 The County Engineer will return his and the Commissioner’s comments and recommendations to the Owner or his agent.
- 3.1.5 The Owner will address the comments and recommendations and set a meeting with the County Engineer to resolve the comments.

3.1.6 The County Engineer will contact the County Judge's Office to request placement of the plat on the next Commissioners' Court agenda for approval if all comments have been addressed or placement of a variance request on the next Commissioners' Court agenda. The County Judge's Office will verify with the proper Commissioner for his concurrence of placement.

3.1.7 Prior to approval of the plat, the Owner shall pay a scanning fee of \$75.00/sheet to the County Engineer. This fee will be waived if the Owner supplies the County Engineer with a digital file of the final plat. The digital file shall be in a .DWG format.

3.1.8 If the property to be platted lies within the extraterritorial jurisdiction (ETJ) of a city, the Owner shall comply with the platting procedure of the city unless the city has waived jurisdiction by Interlocal Agreement.

3.1.9 The final plat procedure will be the same as the preliminary plat procedure.

3.2 Every preliminary plat submission must include all of the following:

3.2.1 Existing topographic contours at two-foot intervals for subdivision where lots are less than five acres, and 10-foot intervals for all other subdivisions.

3.2.2 Tangent lengths, centerline radii, names, and right-of-way dimensions for all proposed and existing streets.

3.2.3 Proposed easements, existing easements and detention ponds.

3.2.4 Proposed approximate property line dimensions.

3.2.5 Adjacent property, owner's name, address, deed record, or subdivision name, block and lot number.

3.2.6 A transmittal letter containing the name, address, telephone number and fax number for the subdivision owner and engineer.

3.2.7 City limits, surveys, section, and county boundaries.

3.2.8 Vicinity map.

3.3 Every final plat submission must include all of the following. Since the County must approve or reject the submission within 60 days, it is the obligation of the developer to submit information, provide notices, and schedule hearings in adequate time to permit proper review by the County. If this is not done, the submission will be rejected and a new application must be filed:

3.3.1 Owners and any lien holder's dedication, and restrictions if any duly acknowledge in the manner required for acknowledgement of deeds. For road widening and drainage purposes the landowner may dedicate either the fee interest in the property or a right-of-way easement for road widening and drainage improvements at the landowners' option. Right-of-way easements for widening roadways or improving drainage must be accompanied by a plat note as found in Section C.1 placing the burden of maintaining the property upon the landowner until road or drainage improvements are actually constructed on the property. The plat must also contain the note as found in Appendix C, Section C.2.

3.3.2 A plat note as found in Appendix C, Section C.3 stating that dedication of all public roadways and easements shall be accomplished free of liens except those liens stated in Section 5.2. Any required release of liens shall be provided to the Commissioners' Court.

3.3.3 Perimeter field notes certified by a Registered Professional Land Surveyor, beginning point to recite approximate bearings and distances to a corner of the original land grant survey of which the subdivision is a part (according to the best available data.)

All lot and block monumentations will be set by a registered professional surveyor before recordation of the plat.

3.3.4 All easements of record that have a designated route shall be shown on the plat. The developer will be responsible for coordinating with all utility providers the location of all public utility easements that are shown on the final plat.

3.3.5 The plat shall show the location of the 100 year floodplain as identified on the most current Polk County Flood Hazard Boundary Map (FHBM), published by the Federal Emergency Management Agency. In addition the plat shall either show the location of special flood hazard areas identified by an engineering study under the seal of a Registered Professional Engineer for those water courses whose basin is larger than 64 acres or show a 100 foot building setback from the centerline of the water course or a building line or the O.S.S.F. setback as required by the Health Department which ever is greater. Additionally, the plat shall designate all easements of public record.

The placement of an elevation benchmark with the location, description and elevation of the benchmark is required to be identified on the face of the plat. The elevation of this benchmark shall be tied into a benchmark shown on the FIRM panel, if available. Minimum first floor elevations for buildings shall be identified on each lot that is adjacent to the 100 year floodplain.

3.3.6 A plat note as found in Appendix C, Section C.4 for Commissioners' Court approval, including authorization for the County Clerk to file the plat for record as found in Appendix C, Section C.5. These notes are to be located in the lower right hand corner of the last sheet of the plat.

3.3.7 A statement of the length of each street in the proposed subdivision and its design speed.

3.3.8 Approval of the incorporated city when the subdivision is within the extraterritorial jurisdiction of that city, unless the city has waived jurisdiction by Interlocal Agreement.

3.3.9 A letter of serviceability from an entity or entities providing water service or a letter from the Owner stating that no service is available within 300 feet of the subdivision and certifying that the lots are suitable for private wells.

3.3.10 A person may not file for record or have recorded in the county clerk's office a plat or replat of a subdivision of real property unless the plat or replat has attached to it an original tax certificate from each taxing unit with jurisdiction of the real property indication that no delinquent ad valorem taxes are owed on the real property. The person must also execute an affidavit that the property described in the plat is within the tract described in the certificates.

3.3.11 A statement from the owner acknowledging that it is the responsibility of the owner, not the County, to assure compliance with the provisions of all applicable state, federal and local laws and regulations relating to the environment, including but not limited to, the Endangered Species Act, state Aquifer Regulations, and municipal watershed Ordinances. This shall be part of the owner's dedication statement on the face of the plat.

3.3.12 Certification by a Registered Professional Engineer under his or her professional seal that all engineering for road and drainage within the subdivision have been completed in compliance with these Regulations, including the Engineering Guidelines

incorporated as Appendix B, and with all generally accepted engineering standards. The owner may defer this certification by meeting the security requirements of Section 5.2 or Section 5.3.

3.3.13 Lots will be a minimum of 30 feet in width as measured 25 feet from the front property line and front on a public street. Any lot that could potentially be re-subdivided shall have a minimum frontage of 50 feet. All parcels within the boundary of the subdivision will have a block and lot number.

3.3.14 A signature block as found in Appendix C, Section C.6 on the plat for approval by the Polk County and Cities Health District, showing that they have examined the plat and that it is in compliance with the Polk County : **(Construction Standards for On Site Sewage Facility Regulations (TCEQ), Floodplain Management Regulations for Polk County, Regulations of the Aquifer).**

This signature block must be signed by a representative of the District prior to final plat approval. The following signature block must be incorporated into the plat during draft stage.

3.3.15 Survey ties across all existing right-of-way located adjacent to the boundary of the subdivision. Each tie shall show the bearing and distance from a proposed property pin to an exiting property pin or fence if a pin cannot be found. Based upon this tie, an approximate right-of-way width shall be shown.

3.3.16 A signature block on the plat for street name and addressing approval by the Polk County 911 Addressing Coordinator.

3.3.17 It is the responsibility of the Owner to assure that the proposed name of the subdivision is not duplicated. The Owner shall check with the County Clerk's records for verification.

3.4 No approval in the form of the Judge's signature, verbal Commissioners' Court action, or otherwise shall be given on any subdivision until the Owner meets every subdivision requirement, including signature, letters of credit, linen copies, paper copies, etc.

3.5 At least one week before the date of the Commissioners' Court meeting, the owner shall submit to the county clerk the original plat and one identical copy. The copy must be 18"X24" on permanent black on white print on photographic mylar for permanent record. The plat must be typed in eight point or larger so that all writing and printing is easily readable. Photocopies are not acceptable. The County Judge's approval and the County Clerk's approval shall be located on the last plat page on the lower right hand corner with the County Clerk's approval being last.

3.6 Following final approval of the subdivision, the County Clerk will record the plat in the Plat Records of Polk County, Texas, and return the original to the Owner with approval and recording information. The Clerk will retain the copy of the plat for the county's files.

3.7 Unless the preliminary plat is followed by a final plat approval within one year, the preliminary plat lapses and the subdivision must be re-submitted for approval.

3.8 The final plat must be recorded within six months of approval by the Commissioners' Court. A single six month extension may be granted by the Commissioners' Court.

IV. RE-SUBDIVISIONS

4.1 Once the owner of an existing lot or lots in a legally platted subdivision has followed the procedure as found in Sections 3.1 and 3.3, the Owner of an existing lot or lots in a legally

platted subdivision may initiate a re-subdivision by notifying the County Engineer. The County Engineer will contact the Commissioner's Office to request placement of the plat on the next Commissioners' Court agenda in order to set a public hearing on the proposed re-subdivision.

4.2 The person proposing the re-subdivision must send notice of the hearing by Certified Mail, Return Receipt Requested at private expense, to each owner of real property within 400 feet of the re-subdivided property. An additional copy of this letter is to be sent to the County Engineer. Notice of public hearing signs will be purchased from the County Engineer and placed next to all adjacent streets. The signs will be placed by 300 foot intervals. Whoever places the signs will be required to verify in writing at the public hearing that the signs remained in place during the previous 21 days. This will give other owners within the subdivision the opportunity to assert any legal claims against the proposed subdivision.

4.3 A proposed plat meeting the requirements of these Regulations must be submitted to the Court signed by each owner, including lien holders, of the property to be re-subdivided. The owners of property elsewhere in the subdivision need not give specific written consent.

4.4 If the Court finds after the public hearing that the re-subdivision will affect no established legal rights, it will enter its order partially vacating the original plat and approving the plat of the re-subdivision. If the Court finds that the re-subdivision will affect established legal rights, it may not approve the re-subdivision without the consent of all affected parties.

4.5 A public hearing will not be required if a public hearing for the proposed re-subdivision was held by a municipality.

V. ROAD AND DRAINAGE CONTRUCTION

5.1 To protect the public interest, the Commissioners' Court of Polk County hereby decrees under the provisions of Chapter 232, Local Government Code, that the owner of any tract of land

that desires to obtain approval of a subdivision plat for recording a plat in the county records shall construct all streets, road and drainage in said subdivision to the standards and specifications set forth in the Engineering Guidelines incorporated as Appendix B of these Regulations before offering said plat for approval, unless exempted by the Polk County Commissioners Court or other provision in these Subdivision Regulations.

5.2 If the subdivision is required to provide detention, then surety will be required for the construction of the detention facility prior to beginning construction of the subdivision improvements. This surety will be released upon the construction of the detention facility and acceptance of the construction by the County Engineer.

5.3 If the owner desires to have the plat placed on record before completion of construction of the streets, roads and drainage, then the owner shall give a good and sufficient bond, cash or letter of credit. This security must be payable to the County Judge, or his successors in office, of Polk County, Texas, for the estimated cost of construction according to the calculations of a Registered Professional Engineer. The security shall be conditioned on the completion, in compliance with Appendix B, the Engineering Guidelines, of all the roads, streets and drainage shown on the plat.

5.4 The developer shall be entitled to partial reductions of his security requirement upon written approval by the County Engineer and the County Judge.

5.5 The owner shall submit construction plans for streets, roads and drainage, traffic signage, landscaping, irrigation, and utilities within a platted subdivision to the County Engineer for approval prior to beginning construction. These plans shall show the location of all underground utilities, including water, sewage, cable television, electric gas, telephone, and storm sewers. These plans shall include the design issues as described in Appendix B Engineering Guidelines.

5.6 Upon approval of the construction plans, the owner shall pay an inspection fee in the amount of 1.5% of the construction cost for the roads and drainage.

5.7 If landscaping and/or irrigation are proposed within the right-of-way, the owner shall create a body (municipal utility district, home owners association, neighborhood association, etc.), that will be responsible for the maintenance and liability of the landscaping and/or irrigation system. This body shall have assessment authority to insure the proper funding for maintenance. A landscape maintenance agreement will be executed between Polk County and the body prior to acceptance of the construction.

5.8 Once the construction has been completed and the County Engineer has approved the construction, the Owner shall provide the County Engineer with a set of "As Built" plans. These plans are to show the improvements as they were actually built. In addition to the plans, the Owner shall pay a scanning fee of \$75.00 per sheet to the County Engineer. This fee will be waived if the Owner supplies the County Engineer with a digital file of the "As Built" plans. The digital file shall be in a format that can be viewed by the current version of AutoCADD. After the "As Built" plans are received, the County Engineer will provide the owner a letter approving the construction of the subdivision.

5.9 The County may determine plats containing flag lots to be a detriment to the public interest, welfare and/or safety, and may require internal road construction at the sole discretion of the Commissioners' Court.

5.10 When traffic signal lights will be required for the entrance of traffic generated by subdivisions at the principal thoroughfares, such signal lights shall be the responsibility of the owner and the construction cost shall be included in the security.

VI. ROAD MAINTENANCE

6.1 By accepting a subdivision plat for filing, the Commissioners' Court does not thereby accept the streets in the subdivision for ownership or maintenance by the County. The owner or owners of the platted lots are responsible for maintenance of all streets or roads within subdivision until such time as the construction of the roads have been accepted by the County.

6.2 The County will not accept a road for maintenance without the following preconditions:

6.2.1 A dedication to the public of an easement or fee interest in the entire roadway;

6.2.2 Written certification from a Registered Professional Engineer that the road was constructed in accordance with the Engineering Guidelines in effect when the subdivision was legally platted (or has been upgraded to those standards). If the subdivision where the road is located was never legally platted, it must meet the current Guideline;

6.2.3 Written certification from a Registered Professional Engineer that the road is currently in compliance with the applicable Guidelines. The cost of any improvements, maintenance, or repairs required to reach that standard shall be borne by the developer or current landowners, not by the County; and

6.2.4 An executed form for dedication must be filed meeting the specific requirements of forms as described herein in Appendix C, Section C.8 or C.9.

6.3 If the subdivision was or will be constructed under provisions other than Section 5.2, the owner will provide Polk County with a warranty bond in the amount of 10% of the cost of construction of the streets, roads and drainage of the subdivision prior to offering the plat for approval. This security must be payable to the County Judge, or his successors in office, of Polk County, Texas, and may be provided by the contractor. Upon receipt of the surety and the acceptance of the construction, Polk County may accept the streets for maintenance. The surety

will be released two years from the date of the letters stated in Sections 6.2.2 and 6.2.3 unless failure of workmanship or materials has occurred. Compliance with all provisions of Section 6.2 is also required. Acceptance of streets for maintenance by the County requires a separate order adopted by the Commissioners Court.

6.4 If the subdivision was constructed under the provisions of Section 5.2, the owner will be allowed to make monthly draws or reductions to the surety. Polk County will release 90% of the approved draw. At the end of construction, the owner may substitute a warranty bond in the amount of 10% of the cost of construction of the streets and drainage of the subdivision. This security must be payable to the County Judge, or his successors in office, of Polk County, Texas and may be provided by the contractor. Upon receipt of the surety and the acceptance of the construction, Polk County may accept the streets for maintenance. The surety will be released two years from the date that the plat was recorded unless failure of workmanship or materials has occurred. Compliance with all provisions of Section 6.2 is also required.

6.5 The enforcement of plat restrictions is the responsibility of the developer and other owners in the subdivision; however, the Commissioners' Court of Polk County shall have the right and authority to enforce plat restrictions through appropriate legal procedure to prohibit the construction or connection of utilities, or issuing of permits unless or until the requirements of the plat restrictions have been achieved.

6.6 The County will assume no responsibility for drainage ways or easements in the subdivision, other than those running on or along the streets and roads. Maintenance and liability of landscaped areas within the right-of-way will be the responsibility of the developer, the municipal utility district, neighborhood association, or other owner entity.

VII. PRIVATE SUBDIVISIONS

If a developer wishes to create a subdivision utilizing private roads, it must meet the following requirements:

7.1 The roads must meet all county road standards, except where specific variances have been granted by Commissioners Court for adequate cause in each case;

7.2 The subdivision plat and restrictions must contain a statement that Polk County will never accept or maintain the roads unless they meet the county standards in effect on the date of acceptance;

7.3 The subdivision plat must contain a statement that the roads will be maintained in perpetuity by the owners in the subdivision, and must contain a mechanism for assessing the owners to produce adequate revenue for perpetual maintenance;

7.4 The plat must contain a requirement that every deed contain notice to the grantee that all streets are private, that the owners will be perpetually liable for maintenance, that the county will never accept it for maintenance, and that the quality of the roads may affect access by public services such as police, fire, and emergency medical services (EMS);

7.5 All arterial and major collector streets required by Appendix B, Section B.2.1 must be dedicated to the public and constructed to county standards. Other streets will be dedicated to the homeowners association for the use of the property owners, their assigns and successors, and emergency response individuals.

7.6 A sign will be placed at the entrance of the subdivision clearly stating that the roads in this subdivision are private roads.

7.7 A homeowners association with assessment authority will be formed

Membership in the association will be mandatory for each lot owner. The association will be responsible for the maintenance of the roads in the subdivision.

7.8 The owner shall provide a maintenance schedule for the roads to the County Engineer. The schedule will include the maintenance activities, their cycle of occurrence, and the current cost of providing the maintenance activity. The total cost of the activities along with a rate of inflation will be used to determine the annual assessment per lot.

7.9 Any owner that gates the entrances to the subdivision shall provide either a crash gate or a lock box and a letter of approval from all of the affected emergency response agencies stating their approval of full time access to the subdivision.

VIII. BUILDING SETBACKS

8.1 The setback line on major highways and roads is set at 50 feet from the edge of the right-of-way.

8.2 The setback line on all public roads other than major highways and roads is set at 25 feet from the edge of the right-of-way.

8.3 The following roads are designed as major highways and roads:

All Texas Department of Transportation maintained roads;
County Roads and municipal streets _____;

8.4 A map designating in a general manner these set back lines is filed with the County Clerk.

IX. VARIANCES

9.1 The Commissioners' Court of Polk County 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.

9.2 Any person who wishes to receive a variance should apply to the Precinct Commissioner, who will place it on the agenda of the Court and present it with his or her recommendation whether the variance should be granted.

9.3 The decision of the Court whether to grant or deny a variance is at its complete discretion, and will be final.

X. PENALTIES

10.1 Section 232.005 of the Texas Local Government Code provides for the enforcement of the state subdivision laws and of these regulations.

10.2 A person commits an offense if the person knowingly or intentionally violates a requirement of these Regulations, including the Platting and Engineering Guidelines incorporated as appendices. That offense is a Class B Misdemeanor punishable by a \$2,000 fine and up to 6 months in jail.

10.3 Under Texas law, a person may be jointly responsible as a party to an offense if the person, acting with intent to promote or assist the commission of the offense, solicits, encourages, directs, aids, or attempts to aid another person to commit the offense. Thus, a real estate agent or broker, a lender, an attorney, a surveyor, an engineer, a title insurer, or any other person who assists in violating these Regulations may also face criminal penalties.

10.4 Besides prosecuting a criminal complaint, the County Attorney may file a civil action in a court of competent jurisdiction to enjoin any violation or threatened violation of these Regulations, and to recover damages.

10.5 A tract that has been subdivided without compliance with these Regulations will be ineligible to obtain a permit for the construction or modification of a Private Sewage Facility located on the tract.

APPENDIX A – PLATTING GUIDELINES

As a guide to the public in determining when it is necessary to file a plat and comply with these Regulations, the Polk County Commissioners' Court, as an incident of its power to enforce the subdivision laws and regulations under Section 232.003, Texas Local Government Code, and with the specific authority of Section 232.0015, has adopted the following policy guidelines stating when the division of an existing tract will be considered by the Court to be a subdivision requiring the filing of a plat by law, and thus requiring compliance with these regulations:

A.1 Form of Sale

If a plat is required under these guidelines, it is immaterial that the sale of daughter tracts is by contract, option, long-term lease (60 months or more), or lease-purchase, rather than by deed, or that the daughter tracts are described by metes and bounds rather than lot and block.

A.2 Grandfather Clause

Any tract whose boundary has not changed since February 21, 1985 may be sold in its entirety without being platted.

A.3 Commercial Development

Unless otherwise specifically exempted, a plat is always required when a parent tract is divided into two or more daughter tracts for sale as part of a unified plan for development of the property. The existence of such a plan may be inferred from circumstances, such as the form of advertising or the sale of multiple tracts within a one-year period.

A.4 Resubdivision

A plat is always required to divide a parent tract that is already located within a subdivision, even if one of the following exemptions would otherwise apply. In addition, partial vacation of any existing subdivision plat will be required simultaneously to resubdivision.

A.5 Access to Public Road/Restriction on Private Roads

Except as provided in Section A.8, a plat is always required, even if all lots are **10 acres** or more in size or are to be used for agricultural or veteran's tracts, if any daughter tract is created that does not have at least 30 feet of frontage on, and direct access to, a public road, or if any streets, alleys, squares, parks, or other parts of the tract are to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to such parts. Private roads and easements are not public roads; rights-of-way that have been dedicated to the public remain private until accepted by the county for maintenance. A "driveway" that is owned or used in common with other tracts is a private road.

This Section requires each separate tract to have 30 feet of separate frontage on a public road, to be used for access by that tract alone. If any daughter tract is out of compliance with this requirement, the subdivider must plat the entire subdivision, including any tracts that do have frontage. Any tract that has less than 50 feet of frontage to a public road must be restricted from any further subdivision. The creation of a subdivision with private roads requires the grant of an explicit variance by the Polk County Commissioners Court.

A.6 Size of Lot

A plat is required if any daughter tract will not exceed **10 acres** in area. If any daughter tract is out of compliance with this requirement, the subdivider must plat the entire subdivision, including any tracts that do have more than **10 acres**.

A.7 Adjacent Lots

A plat is not required when the owner of two or more distinct adjacent tracts sells one or more of them, so long as all existing tracts remain intact. To be "distinct," the tracts must have a history of separate use and meet the requirements of Section A.2.

A.8 Family Grants

A plat is not required when a person makes a conveyance of four or fewer tracts, each of which is sold, conveyed, given, or otherwise transferred, to persons who are related to the owner within the third degree of consanguinity (parent, child, grandparent, grandchild, sister, brother, great-grandparent, great-grandchild, aunt, uncle, niece, nephew) or affinity (the spouse of anyone listed above, or so related to the owner's spouse) for their personal use; provided, however, that each daughter tract is either located on a public road or has access to such a road by a private easement. However, if the family member sells the land to a non-family member within two years, it will be presumed that the conveyance was not for personal use.

A.9 Phased Subdivisions

(a) A plat is not required when daughter tracts are created solely for purposes of platting them as individual subdivisions in their own right. The developer must submit to the Court the preliminary plat for the project as a whole before claiming this exception.

(b) A plat is not required when the owner retains title to a lot or portion of the land with direct access to a public road, and the other lot or portion is transferred to another person who will further subdivide the tract subject to the platting requirements herein.

A.10 Property-line Adjustments

A plat is not required when two adjacent landowners adjust or change the property lines which separate their respective tracts, so long as there are the same number of tracts and owners after the transaction as existed before it. This exemption applies whether the transaction requires an exchange of land by both owners, or only a transfer of land from one owner to the other, and whether the transaction takes the form of a sale or of an exchange in kind. However, any land added to a tract through such a transaction shall become an integral part of the tract, and may not

be separately conveyed except in compliance with the subdivision laws. Each resulting tract shall, of course, be subject to the minimum lot size requirements of these Regulations and other applicable laws. This exception does not apply if the adjustment will change the boundary between two legally platted lots, or subtract land from a legally platted subdivision.

A.11 Partial Financing

A plat is not required when a smaller tract is surveyed out of the parent tract solely for the purposes of obtaining financing for purchase of improvement of that part of the property, provided that possession and primary beneficial ownership of the entire parent tract are intended to remain unified, and provided that each tract has (50 feet) of frontage on a public road.

A.12 Foreclosure

A plat is not required when a smaller tract is created by the legitimate foreclosure of a valid lien on a part of the parent tract. This provision does not exempt sham transactions or foreclosures staged to avoid the platting requirement.

A.13 Partition

(a) A plat is not required if the property has been divided by the final decree of a court of record with appropriate jurisdiction.

(b) A plat is not required if all parts of the parent tract are transferred to persons who own an undivided interest in the original tract, and each tract created has direct access to a public road. A plat must be filed in accordance with these regulations before any further development of any part of the tract.

A.14 Agricultural Use

A plat is not required if every daughter tract is to be used primarily for agricultural use, as defined by Art. VIII, Section 1d, Texas Constitution, or for farm, ranch, wildlife management, or

timber production use within the meaning of Art. VIII, Section 1-d-1, Texas Constitution. If a tract of land ceases to be used primarily for these uses, the owner will be required to comply with these regulations on the same basis as any newly divided tract.

A.15 Sale to Veterans

A plat is not required if all daughter tracts are to be sold to veterans through the Veteran's Land Board Program.

A.16 Sale by State Government

A plat is not required if the owner of the land is the State of Texas, an agency, board or commission of the State of Texas, or a permanent school fund or other dedicated fund of the State, and the owner does not lay out any part of the tract for roads, parks, or other areas for the common use of two or more tracts or for the use of the public.

A.17 Sale of Floodplain by Government

A plat is not required if the owner is a political subdivision of the State of Texas, the land is situated in a floodplain, and all lots are sold to adjoining landowners.

A.18 Documentation

Any owner who claims to be entitled to any exclusions to platting set out in these Guidelines must provide the following prior to the issuance of any development permits:

- (a) An affidavit claiming the exemption and setting out the detailed basis for exclusion from the platting requirement, subject to penalties of perjury.
- (b) A copy of the deeds or other instruments creating the daughter tracts referenced in the affidavit.

APPENDIX B – ENGINEERING GUIDELINES

B.1 Lot Size

Minimum lot size shall be one acre for lots which have a private water well and septic system. Drainage easements and road widening easements are to be excluded from the acre calculation. There shall be a 100 foot radius between the well and any septic system drain-field. The Rules of Polk County for On-Site Sewage Facilities or other federal, state, or local laws or regulations may impose further lot restrictions.

B.2 Road Alignments

B.2.1 Streets shall be laid out so as to align with existing streets in adjoining or nearby subdivisions, leaving the possibility of connecting such subdivisions with a minimum of road construction. No voids may be left within the subdivision with the intent of avoiding responsibility for constructing roads or bridges, nor along the subdivision boundary to avoid connecting with adjacent subdivisions or roads.

B.2.2 Cross-Streets at a maximum spacing of 1500 feet shall be provided to facilitate the movement of emergency vehicles such as fire trucks and ambulances. More frequent spacing for urban roads may be required, depending on traffic conditions and density.

B.2.3 Dead end streets that end at undeveloped property may remain as dead end streets, but must be extended to the property lines. Dead end streets which shall remain as dead end streets shall have a cul-de-sac with a minimum right-of-way radius of 50 feet (minimum base radius to be 44 foot) with “Dead End” or “No Outlet” street signs placed over the street name sign.

B.2.4 The County may require an internal street system that minimizes road cuts to existing County or other public roadways.

B.2.5 Streets that have homes taking direct access onto them should not exceed 1500 feet.

B.3 Minimum Road Requirements

B.3.1 Arterial streets shall be designed as follows:

- (a) If the arterial is included in a roadway or transportation plan, the right-of-way and pavement cross section shall be as required in the plan.
- (b) The minimum right-of-way shall be 80 feet.
- (c) The pavement cross section in a rural subdivision shall be 24 feet of travel way with paved eight foot shoulders.
- (d) The pavement cross section in an urban subdivision shall be two 24 foot travel ways (LOG-LOG) with a 19 foot median (LOG-LOG).
- (e) The minimum design speed shall be 40 MPH.

B.3.2 Collector streets shall be designed as follows:

- (a) If the collector is included in a roadway or transportation plan, the right-of-way and pavement cross section shall be as required in the plan.
- (b) The minimum right-of-way shall be 60 feet.
- (c) The pavement cross section in a rural subdivision shall be 22 feet of travel way with paved four foot shoulders whose average daily trip (ADT) is less than 2000, 22 feet of travel way with paved six foot shoulders whose ADT is less than 4000, 22 feet of travel way with paved eight foot shoulders whose ADT is greater than 4000.
- (d) The pavement cross section in an urban subdivision shall be a 37 foot travel way (LOG-LOG) whose ADT is less than 2000, a 41 foot travel way (LOG-LOG) whose ADT is less than 4000, and a 45 foot travel way (LOG-LOG) whose ADT is greater than 4000.
- (e) The minimum design speed shall be 30 MPH.

B.3.3 Local streets shall be designed as follows:

- (a) The minimum right-of-way shall be 50 feet for urban subdivisions and 60 feet for rural subdivisions.
- (b) The pavement cross section in a rural subdivision shall be 20 feet of travel way with paved four foot shoulders or an 18" ribbon curb whose average daily trip (ADT) is less than 1000.
- (c) The pavement cross section in an urban subdivision shall be a 30 foot travel way (LOG-LOG) whose ADT is less than 1000.
- (d) The minimum design speed shall be 25 MPH.

B.3.4 The following standards apply to all streets:

- (a) It will be assumed for planning purposes that land adjacent to a street will produce 32 ADT/acre unless there is a plat note prohibiting the resubdivision of the adjacent property in which case it will be assumed that each lot will produce 8 ADT.
- (b) The standard for curbs, where installed, shall be 18 inches, with 18 inches of base beyond the curb.

B.3.5 Additional Right-of-Way for Existing Roads:

- (a) Where the subdivision affects a county road, the Commissioners' Court shall determine the right-of-way width which will be necessary for the maintenance and improvement of the road. This right-of-way requirement may be as wide as 100 feet if the county road is a potential major artery.
- (b) Where the subdivision affects only one side of a county road, adequate right-of-way shall be provided to obtain one-half the total proposed width to provide right-of-way as prescribed by the Commissioners' Court. More than one-half of the total proposed width may be required by the Commissioners' Court under unusual circumstances.

(c) Where the development is on both sides of the existing county road, right-of-way for the total prescribed width shall be provided.

(d) Any improvements proposed by the developer along an existing county road shall:

- (1) Comply with the standards set in Paragraph B.3.1;
- (2) Be included in the construction plans as approved by the **County Engineer**; and
- (3) Where it is an improved facility, it must be equal to the existing road, in the sole judgment of the Commissioners' Court.

B.3.6 Unless otherwise stated in these regulations, all roads and streets shall be designed in accordance with the latest version of the American Association of State Highway and Transportation Officials (AASHTO) "A Policy on Geometric Design of Highways and Streets" and **City's Transportation Criteria Manual**. Should there be a conflict between the two publications, the AASHTO publication will overrule. All references to "**mountainous terrain**" shall not apply to Polk County.

B.4 Construction: General

B.4.1 A preconstruction meeting will be scheduled prior to the start of construction. The Design Engineer, Owner, Contractor, Subcontractors, and County Engineer shall attend this meeting. All streets and roads are to be constructed according to specification found in the current version of the Texas Department of Transportation Manual Standard Specifications for Construction of Highways, Streets, and Bridges unless otherwise stated in these guidelines.

B.4.2 All streets, roads, and concrete structures shall be tested by an independent testing laboratory. The subgrade will be tested for Plasticity Index, percent of lime if lime is to be added, and Proctor density. The each base course will be tested for Proctor density and depth. The two course surface treatment will have certification of distribution of AC-5 or HFRS-2

asphalt and of the cover stone. The HMAC course will be tested for Proctor density and depth. All Proctor density test reports will include a copy of the work sheet showing 100% Proctor. Concrete will be tested for compressive strength. A test will be placed at intervals no greater than 500 feet and will be determined by the County Engineer. The developer will pay for all testing and will furnish the County Engineer with certified copies of these tests. The number and location of all subgrade, base, and HMAC test samples shall be determined by the County Engineer. The County Engineer must approve the test results prior to construction the next course of the pavement.

B.4.3 All underground nonferrous utilities within a right-of-way or easement must be accompanied by ferrous metal lines to aid in the location of said utilities through the use of a metal detector except for electrical lines.

B.4.4 All pavement is to be designed by a professional engineer. The design is to be based upon a soils report of samples taken along the proposed roadways. Test holes will be placed at a maximum spacing of 500 feet. The County Engineer shall review the report along with the street and drainage construction plans for the subdivision.

B.5 Subgrade

B.5.1 The preparation of the subgrade shall follow good engineering practices as directed by the County Engineer. When the PI is greater than 20, then a sufficient amount of lime shall be added as described in TXDOT Item 260.4 "Construction Methods for Lime Treated Subgrade" until the PI is less than 20. If Item 260.4 is not feasible, an alternate stabilizing design will be required. The subgrade will be prepared and allowed to reach a Proctor Density of 95%.

B.5.2 The subgrade must be inspected and approved by an Independent Testing Laboratory and a certified copy given to the County Engineer, who must approve the report in prior to application of the base.

B.6 Base Material

B.6.1 Base material shall conform to TXDOT Item 247 "Flexible Base". The base material shall be Type A Grade 2.

B.6.2 The base will be prepared and allowed to reach a Proctor density of 98%. The final lift of base will be prepared and allowed to reach a Proctor density of 100%. The maximum lift shall not exceed 5 inches. The base must be inspected and approved by an Independent Testing Laboratory and a certified copy given to the County Engineer for approval.

B.7 Wearing Surface

B.7.1 Urban street require a minimum 1-1/2" layer of HMAC Type D. The mix shall be from a TXDOT certified plant. The mix design shall be submitted to the County Engineer prior to placement of the material. Contractor's Quality Control (CQC) test reports shall be submitted to the engineer on a daily basis. As a minimum, daily CQC testing on the produced mix shall include: Sieve Analysis TEX-200-F, Asphalt Content TEX-210-F, Hveem Stability TEX-208-F, Laboratory Compacted Density TEX-207-F, and Maximum Specific Gravity TEX-227-F. The number of cores required shall be as found in Section B.4.2 with a minimum of three or six inch diameter field cores will be secured and tested by the contractor from each day's paving. Pay factors will be calculated by the Engineer in accordance with the following schedule:

DENSITY ACCEPTANCE SCHEDULE (TEX-207-F/TEX-227-F) PERCENT OF CONTRACT REDUCTION

PERCENT DENSITY*	1.5 OR GREATER THICKNESS	THICKNESS LESS THAN 1.5
Above 96	100; Remove and Replace	100; Remove and Replace
91 to 96	0	0

90.9 to 88.1	0.625 per 0.10% deficiency	0.5 per .010% deficiency
Less than 88.1	100; Remove and Replace	100; Remove and Replace

* Core bulk density divided by the maximum theoretical density.

B.7.2 Rural streets may use either HMAC or a two course surface treatment. The type and rate of asphalt and aggregate will be determined at the preconstruction conference. Aggregate used in the mix shall be on the TXDOT Quality Monitoring Schedule. Aggregate shall be Type B Grade 4 and conform to TXDOT Item 302 except that 98.8 – 100 be retained on No. 10 sieve provided that the decantion test does not exceed 1.0% as found in Section 302.4. Gradation tests will be required for each 300 CY with a minimum of two test per each grade per each project. Test results shall be received by the County Engineer prior to application of the material. The type of asphalt will be determined at the preconstruction meeting.

B.7.3 Paving material shall be applied only as directed in the Texas Department of Transportation Manual as to temperatures, etc.

B.8 Concrete

B.8.1 Design Engineer shall determine class of concrete for each structure. Aggregate used in the mix shall be on the TXDOT Quality Monitoring Schedule. Batch design will be required for each class of concrete. Test beams will be required for each 50 CY or a minimum of one beam for each class of concrete. A slump test will be required with each set of test beams. Air entraining and retarding agents used shall be from approved TXDOT list. Fly ash may be used if the batch design is approved by the County Engineer and the minimum compressive strength test is met.

B.9 Street Names and Markers

B.9.1 All streets and roads to be dedicated to the public with a subdivision shall be named, with prior approval for said name from the Polk County 911 Addressing Coordinator. The developer

shall provide the Coordinator with two copies of the plat. The street names shall be displayed on standard intersection street markers erected by the owner at each street intersection. All houses shall be numbered.

B.9.2 Traffic control signs (such as stop, yield, and speed limit signs) as approved by Commissioners' Court, shall be installed by the owner or owners of said subdivision at all intersections. Other traffic control signs shall be installed to indicate any unusual traffic or road hazard or conditions that may exist. All traffic control devices shall be placed in compliance with the current standards of the Texas Department of Transportation and the construction cost shall be included in the security. The placement of these signs shall be shown in the construction plans.

B.9.3 A speed limit of 25 MPH for local streets, 30 MPH for collector streets, and 40 MPH for arterial streets within all platted subdivisions is hereby adopted. This limit may be changed only by Commissioners Court upon the basis of an engineering and traffic investigation showing that the prima facia maximum reasonable and prudent speed for a particular street (or part of a street) should be different. Placement of a stop sign on the minor street at all tee intersections is hereby adopted.

B.9.4 The streets or roads in any subdivision will not be accepted for final maintenance by the Commissioners' Court until all of the aforesaid requirements and conditions regarding street names, street signs and traffic control signs have been complied with.

B.9.5 A street name sign shall be placed at the end of all streets that are proposed to be extended at some time in the future. The sign will state the following: Future Extension of <name of street>.

B.10 Drainage and Flood Control

B.10.1 Detention ponds, when needed, shall be supplied with a view to restricting drainage from the platted area to rate of drainage of the land in its natural state. When a development shall have several sections, the ultimate detention area must be dedicated if not located in the first platted section. Each development is required to detain runoff water on each developed tract so that the peak discharge rate is equal or less than when the property was in its natural state. Detention is to be designed by a Registered Professional Engineer according to the 2, 10 and 100 year storm. Exceptions may be allowed when the engineer can show that downstream property shall not be adversely affected.

B.10.2 Drainage calculation shall be made using the drainage criteria manual or other methods satisfactory to the County Engineer. All data and calculations must be presented to the County Engineer as part of the construction plans.

B.10.3 Flood-Handling Requirements

(a) Drainage for arterial streets, roads, and bridges shall be designed to convey the 25 year storm.

(b) Drainage for local and collector streets, roads, and bridges shall be designed to convey the 10 year storm.

B.10.4 All drainage structures and appurtenances shall be designed by a registered professional engineer. All culverts shall be shown in profile except driveway culverts. Each profile shall show the design flow, velocity, depth, and headwater.

B.10.5 Some point within the first 10 feet of the edge of the gutter, the driveway shall have the same or greater elevation as the top of the curb across the entire width of the driveway.

B.10.6 Responsibility for drainage is not to be accepted by the County other than that accepted in connection with draining or protecting the road system and streets.

B.10.7 All roadside ditches shall have a minimum depth equal to the diameter of the driveway culvert pipe plus six inches and a bottom width equal to the diameter of the driveway culvert pipe. The side slope of the ditches is to be 3:1 or flatter.

B.10.8 Roadside ditches may be eliminated within a rural subdivision provided that the road has 18 inch ribbon curbs, the street has a minimum of two per cent (2%) cross slope, and that the drainage patterns in the subdivision remain as in an undeveloped state.

B.11 Driveways

B.11.1 Minimum driveway spacing on arterial roads without curb and gutter shall be 100 feet.

B.11.2 The use of concrete “dip type” driveways is encouraged. The maximum grade break at each vertical point of intersection shall be 15%. Concrete will be 3000 PSI with a minimum thickness of four inches. Minimum reinforcement shall be #3 at 18” OCEW.

B.11.3 No driveway drainpipe will be accepted unless it has a minimum drain of 18” or equal in diameter and a minimum length of 22 ft. Larger or longer drain-pipes shall be installed if necessary to handle drainage based upon a 25 year flow frequency. Use of “dip type” driveways are permitted as long as the grade breaks are less than 15%.

B.11.4 Certification of a registered professional engineer as to the size or type of driveway drainage pipes for each lot in a subdivision shall be shown on the plat. A plat note stating that all driveways onto rural county roads whose lot is served by a septic system shall be required to obtain a permit from the **Polk County** prior to construction. The county shall regrade the roadside ditch within 14 days of notification by the owner. This will be done prior to the engineer sizing the pipes.

B.11.5 Notice of these drainpipe placement requirements shall be placed in all deed restrictions by the developer.

APPENDIX C – PLAT NOTES

C.1 Road Widening Easements

Right-of-way easements for widening roadways or improving drainage shall be maintained by the landowner until a road or drainage improvements are actually constructed on the property. The County has the right at any time to take possession of any road widening easement for the construction, improvement or maintenance of the adjacent road.

The landowner assumes all risks associated with improvements located in the right-of-way or road widening easements. By placing anything in the right-of-way or road widening easements, the landowner indemnifies and holds the County, its officers, and employees harmless from any liability owing to property defects or negligence not attributable to them and acknowledges that the improvements may be removed by the County and that the owner of the improvement will be responsible for the relocation and/or replacement of the improvement.

C.2 Owner's Responsibilities

In approving this plat by the Commissioners' Court of Polk County, Texas, it is understood that the building of all streets, roads, and other public thoroughfares and any bridges or culverts necessary to be constructed or placed is the responsibility of the owners of the tract of land covered by this plat in accordance with the plans and specifications prescribed by the Commissioners' Court of Polk County, Texas. Said Commissioners' Court assumes no obligation to build any streets, roads, or other public thoroughfares shown on this plat or of constructing any of the bridges or drainage improvements in connection therewith. The County assumes no responsibility for the accuracy of representations by other parties in this plat. Flood plain data, in particular, may change depending on subsequent development. It is further understood that the owners of the tract of land covered by this plat must install at their own

expense all traffic control devices and signage that may be required before the streets in the subdivision have finally been accepted for maintenance by the County.

C.3 Lien Free Right-of-Way

All public roadways and easements as shown on this plat are free of liens.

C.4 County Judge's Approval

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF POLK §

I, (Current County Judge), County Judge of Polk County, Texas do hereby certify that this map or plat, with field notes hereon, that a subdivision having been fully presented to the Commissioners Court of Polk County, Texas, and by the said Court duly considered, were on this day approved and plat is authorized to be registered and recorded in the proper records of the County Clerk of Polk County, Texas.

(Current County Judge), Polk County Judge Date _____

C.5 County Clerk's Approval

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF POLK §

I, (Current County Clerk), County Clerk of Polk County, Texas, do hereby certify that the foregoing instrument in writing, with its certificate of authentication was filed for record in my office on the day of _____, 20__ A.D., at _____ o'clock, __.m., in the Plat Records of said County in Volume _____, Page _____.

TO CERTIFY WHICH, WITNESS my hand and seal at the County Court of said County, at my office in Livingston, Texas, the date last shown above written.

(Current County Clerk), County Clerk of Polk
County, Texas
By: _____Deputy

C.6 Health Department Approval

Based upon the representations of the engineer and surveyor whose seal is affixed hereto, and after review of the plat as represented by the said engineer or surveyor, I find that this plat

complies with the **Water Regulations, The Polk County Flood Plain Regulations, and the Rules of Polk County for On-Site Sewage Facilities**. This certification is made solely upon such representations and should not be relied upon for verifications of the facts alleged. Polk County disclaims any responsibility to any member of the public for independent verification of the representations, factual or otherwise, contained in this plat and the documents associated within it.

C.7 Mailboxes

Where rural route mailboxes are in use, such boxes shall be set three feet from the edge of the pavement or behind curbs, when used. All mailboxes within county arterial right-of-way shall meet the current TXDOT standards. Any mailbox that does not meet this requirement may be removed by Polk County.

C.8 Form of Dedication for Individual or Individuals

STATE OF TEXAS §

COUNTY OF POLK §

I, (or We), (Name of owner or names of owners), owner (or owners) or the property subdivided in the above and foregoing map of the (Name of Subdivision), do hereby make subdivision of said property according to the lines, streets, lots, alleys, parks, building lines, and easements therein shown, and designate said subdivision as (Name of Subdivision) in the _____ Survey, _____ County, Texas; and dedicate to public use, as such, the streets, alleys, parks and easements shown thereon forever, and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated, or occasioned by the alteration of the surface of any portion of streets or alleys to conform to such grades; and do hereby bind myself (or ourselves) my (or our) heirs and assigns to warrant forever defend the title to the land so dedicated.

a. The following paragraph is to be used for all subdivisions:

 This is to certify that I (or we), (Name of owner or owners) owner (or owners) of the property subdivided in the above and foregoing map of (Name of Subdivision) have complied or will comply with the regulations heretofore on file with Polk County.

b.* The following paragraph is to be used where there is a lien against the property, or a separate instrument may be filed:

 “I (or We), (Name of mortgagee or names of mortgagees) owner and holder (or owners and holders) of a lien (or liens) against the above described property, said lien

(or liens) being evidenced by an instrument of record in Volume __, Page _____, of Real Property Records of Polk County, Texas, do hereby in all things subordinate to said subdivision and dedication said lien (or liens), and I (or We) here by confirm that I am (or we are) the present owner (or owners) of said lien (or liens) and have not assigned the same nor any part thereof.”

* When this paragraph is used, the mortgagee or mortgagees shall sign his (or their) names, have them attested, and notarized.

c. The following paragraph is not required but is necessary for overhead lines in easements:

“There is also dedicated for utilities an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward located adjacent to all easements shown hereon”.

d. The following paragraphs are to be used for drainage purposes.

FURTHER, I (or We), do hereby dedicate forever to the public a strip of land fifteen (15) feet wide on each side of the center line of any and all gullies, ravines, draws, sloughs, or other natural drainage courses located in said subdivision, as easements for drainage purposes, giving Polk County and/or any other public agency the right to enter upon said easement at any and all times for the purpose of construction and/or maintaining drainage work and/or structures.

FURTHER, all of the property subdivided in the above and foregoing map shall be restricted in its use, which restrictions shall run with the title of the property, and shall be enforceable, at the option of Polk County, by Polk County, or any citizen thereof, by injunction, as follows:

(1) The drainage of septic tanks into road, street, alley, or other public ditches, either directly or indirectly, is strictly prohibited.

(2) Drainage structures under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater, and shall be a minimum of one and three quarters (1-3/4) square feet (18" diameter pipe culvert). Culverts or bridges must be used for driveways and/or walks.

e. The following paragraph is to be used for all subdivisions:

I (or We) hereby covenant and agree that all lots within the boundaries of this subdivision are for residential purposes unless otherwise noted.

f. The following paragraph is to be used for all subdivisions where a sanitary sewer system is not to be installed along with the development of the subdivision and prior to the occupancy of any lot or building site in the subdivision:

"I (or We) hereby covenant and agree with Polk County and/or any property owner that no dwelling unit shall be constructed and/or occupied on any lot having an area of less than one-half acre (1/2) unless a sanitary sewer system meeting the approval of the County and State Health Authorities shall first have been extended to the lot, plot, or site; and in no case shall any dwelling be constructed upon a lot, plot or site of less area than five thousand (5000) square feet or with less street building line frontage than fifty (50) feet.

g. WITNESS MY (OR OUR) HAND IN LIVINGSTON, POLK COUNTY, TEXAS, this the _____ day of _____, 200__.

(Signature of Owner)
(Print Name)

(Or Signatures of Owners)

(Print Name)

h. STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared (name of owner or names of owners), known to me to be the person (or persons) whose name (or names) is (or are) subscribed to the foregoing instrument, and acknowledge to me that he (or they) executed the same of the purposes and consideration therein set forth GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 200____.

(Print Name)

Notary Public in and for _____
County, Texas.

(SEAL)

- a. This is to certify that I, (name of Engineer), a registered engineer (or Licensed surveyor) of the State of Texas, have platted the above subdivision from an actual survey on the ground; and that all block corners, angle pints, and points of curve are properly marked with iron pipes (here specify diameter and length of states, which should be 1: G.I. pipe 3; long or equivalent).

(Print Name) Engineer

Texas Registration No. _____

(SEAL)

- j. The following paragraph is to be used for all subdivisions in Polk County.

APPROVED BY THE Commissioners' Court of Polk County, Texas, this day of

_____, 200 ____.

COMMISSIONER, PRECINCT #1

COMMISSIONER, PRECINCT #2

COUNTY JUDGE

COMMISSIONER, PRECINCT #3

COMMISSIONER, PRECINCT #4

k.

STATE OF TEXAS

COUNTY OF POLK

I, (NAME OF CLERK), Clerk of the County Court of Polk County, Texas,
do hereby certify that the within instrument with its certificate of authentication was filed
for registration in my office on _____, 200____, at _____ o'clock, ____M., and
duly recorded on _____, 200____, at _____ o'clock ____M., and in Volume
_____, Page _____, of record of _____ for said county.

WITNESS my hand and seal of office, at Livingston, Texas the date last above written.

(Name of Clerk) Clerk, County
Court of Polk County, Texas

By: _____
Deputy

C.9 Form of Dedication to be Utilized on Subdivision and Resubdivision Plats For Corporations

STATE OF TEXAS §

COUNTY OF POLK §

We, (Name of President) and (Name of Secretary), President and Secretary respectively of (Name of Company), owner of the property subdivided in the above and foregoing map of (Name of subdivision), do hereby make subdivision of said property for and on behalf of said (name of company), according to the lines, streets, lots, alleys, parks, building lines, and easements thereon shown and designate said subdivision as (Name of Subdivision), located in the _____, Survey _____ Polk County, Texas, and on behalf of said (Name of Company); and dedicate to public use, as such, the streets, alleys, parks, and easement shown thereon forever; and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated, or occasioned by the alteration of the surface of any portion of streets or alleys to conform to such grades; and do hereby bind ourselves, our successors and assigns to warrant and forever defend the title to the land so dedicated.

a. The following paragraph is to be used for all subdivisions:

This is to certify that (Name of President), and (Name of Secretary), President and Secretary respectively of (Name of Company), owner of the property subdivided in the above and foregoing map of (Name of Subdivision) have complied or will comply with the regulations heretofore on file with Polk County.

b.* The following paragraph is to be used when there is a lien against the property or a separate instrument may be filed:

I, (or we), (Name of Mortgagee or Names of Mortgagees), owner and holder (or owners and holders) of a lien (or Liens) against the above described property, said lien (or liens) being evidenced by

*When this paragraph is used, the mortgagee or mortgagees shall sign his (or their) names, have them attested, and notarized an instrument of record in Volume _____, Page _____, of the Real Property Records of Polk County, Texas, do hereby in all things subordinate to said subdivision and dedication said lien (or Liens), and I (or we) hereby confirm that I am (or we are) the present owner (or owners) of said lien (or liens) and have not assigned the same nor any part thereof.

c. The following paragraph is not required but is necessary for overhead lines in easements:

There is also dedicated for utilities an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to all easements shown hereon.

d. The following paragraphs are to be used for drainage purposes,

FURTHER, We, or (Name of Company), do hereby dedicate forever to the public a strip of land fifteen (15) feet wide on each side of the center line of any and all gullies ravines, draws, sloughs, or other natural drainage courses located in the said subdivision, as easements for drainage purposes, giving Polk County and/or any other public agency the right to enter upon said easements at any and all times for the purpose of constructing and/or maintaining drainage work and/or structures.

FURTHER, all of the property subdivided in the above and foregoing map shall be restricted in its use, which restrictions shall run with the title to the property, and shall be enforceable, at the option of Polk County, by Polk County or any citizen thereof, by injunction, as follows:

(1) That drainage of septic tanks into road, street, alley, or other public ditches, either directly or indirectly, is strictly prohibited.

(2) Drainage structures under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater, and shall be a minimum of one and three quarters (1 ¾) square feet (18" diameter pipe culvert). Culverts or bridges must be used for driveways and/or walks.

e. The following paragraph is to be used for all subdivisions:

We hereby covenant and agree that all lots within the boundaries of this subdivision are for residential purposes unless otherwise noted.

f. The following paragraph is to be used for all subdivisions where a sanitary sewer system is not to be installed along with the development of the subdivision and prior to the occupancy of any lot or building site in the subdivision:

I (or we) hereby covenant and agree with Polk County and/or any property owner that no dwelling unit shall be constructed and/or occupied on any lot having an area of less than fifteen thousand (15,000) square feet unless a sanitary sewer system meeting the approval of County and State Health authorities shall first have been extended to the lot, plot, or site; and in no case shall any dwelling be constructed upon a lot, plot, or site of less area than five thousand (5,000) square feet or with less street building line frontage than fifty (50) feet.

- g. IN TESTIMONY WHEREOF, the (Name of Company) has caused these presents to be signed by (Name of President), its President, thereunto authorized, attested, by its Secretary, (Name of Secretary), and its common seal hereunto affixed this _____ day of _____, 20____.

(Print Name of Company)

By: (Signature of President)

(Print Name)

(President)

ATTEST: (Signature of Secretary)

(Print Name)

(Secretary)

- h. STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared (Name of President), President and (Name of Secretary), known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and considerations therein expressed, and in the capacity therein and herein set out, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 200_____.

(SEAL)

NOTARY PUBLIC IN AND FOR _____
COUNTY OF TEXAS

- i. This is to certify that I, (Name of Engineer), a registered engineer (or Licensed surveyor) of the State of Texas, have platted the above subdivision from an actual survey on the ground; and that all block corners, angle points, and points of curve are properly marked with iron pipes (here specify diameter and length of stakes, which should be 1" G.I. pipe 3' long or equivalent).

(SEAL)

(Print Name)

Engineer

Texas Registration No. _____

- j. The following paragraph is to be used for all subdivisions.
APPROVED by the Commissioners' Court of Polk County, Texas, this _____ day of _____, 200_____.

COMMISSIONER, PRECINCT #1

COMMISSIONER, PRECINCT #2

COUNTY JUDGE

COMMISSIONER, PRECINCT #3

COMMISSIONER, PRECINCT #4

- k. STATE OF TEXAS
COUNTY OF POLK

I, (Name of Clerk), Clerk of the County Court of Polk County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on _____, 200____, at

_____ o'clock, ____ .m., and duly recorded on _____.
200____, _____ o'clock, ____ .m., Vol. _____, Page _____, of record of
_____ of said County.

WITNESS MY HAND AND SEAL OF OFFICE, at Livingston, Texas, the day
and date last above written.

(Name of Clerk), Clerk, County Clerk,
Polk County, Texas

By: _____
Deputy

CHAPTER 364
MODEL SUBDIVISION RULES
Readopted February 10, 2004 pursuant to Government Code §2001.039
Amended Effective February 10, 2004

SUBCHAPTER A. GENERAL PROVISIONS

- §364.1 Scope of Chapter
- §364.2 Purpose

SUBCHAPTER B. MODEL RULES

DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS

- §364.11 Authority and Scope of Rules
- §364.12 Purpose
- §364.13 Effective Date
- §364.14 Repealer
- §364.15 Plat Required
- §364.16 Supersession
- §364.17 Severability
- §364.18. Definitions

DIVISION 2. MINIMUM STANDARDS

- §364.31 Scope of Standards
- §364.32 Water Facilities Development
- §364.33 Wastewater Disposal
- §364.34 Greywater Systems for Reuse of Treated Wastewater
- §364.35 Sludge Disposal
- §364.36 Setbacks
- §364.37 Number of Dwellings Per Lot

DIVISION 3. PLAT APPROVAL

- §364.51 Applications for Plat Approval
- §364.52 Final Engineering Report
- §364.53 Additional Information
- §364.54 Financial Guarantees for Improvements
- §364.55 Review and Approval of Final Plats
- §364.56 Time Extensions for Providing Facilities
- §364.57 Criteria for Subdivisions that Occurred Prior to September 1, 1989

DIVISION 4. ENFORCEMENT

- §364.71. Oversight
- §364.72 General Enforcement Authority of County

APPENDICES

- Appendix 1A. Sample Form for Water Service Agreement
- Appendix 1B. Sample Form for Wastewater Service Agreement
- Appendix 2A. Subdivision Construction Agreement Sample Form

SUBCHAPTER A. GENERAL PROVISIONS
Texas Administrative Code §§364.1-364.2

These rules are adopted under the authority of the Texas Water Code, §6.101 and §16.343, which require the board to adopt rules necessary to carry out the powers and duties of the board and to adopt model subdivision rules.

§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.

Adopted effective 2/10/00

§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.

Adopted effective 2/10/00

Amended effective February 10, 2004

SUBCHAPTER B. MODEL RULES
DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS
Texas Administrative Code §§364.11-364.18

These rules are adopted under the authority of the Texas Water Code, §6.101 and §16.343, which require the board to adopt rules necessary to carry out the powers and duties of the board and to adopt model subdivision rules.

§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. All deeds and contracts for deeds.

Adopted effective 2/10/00

§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.

Adopted effective 2/10/00

§364.13. Effective Date. These rules become effective on the ____ day of _____, ____.

Adopted effective 2/10/00

§364.14. Repealer. Provisions of Order(s) Number ____, adopted on the ____ day of _____, ____, are hereby repealed, except as to such sections which are retained herein.

Adopted effective 2/10/00

§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.

Adopted effective 2/10/00

§364.16. Supersession. These rules supersede any conflicting regulations of the county.

Adopted effective 2/10/00

§364.17. Severability. 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.

Adopted effective 2/10/00

§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 "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.

Adopted effective 2/10/00

Amended effective February 10, 2004

DIVISION 2. MINIMUM STANDARDS
Texas Administrative Code §§364.31-364.37

§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.

Adopted effective 2/10/00

§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 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. Figure: 31 TAC §364.32(a)(1)
 - (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.

Adopted effective 2/10/00

Amended effective February 10, 2004

§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 public 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. Figure: 31 TAC §364.33(a)(2)
- (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 §285.3(i), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

Adopted effective 2/10/00 .

Amended effective February 10, 2004

§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.

Adopted effective 2/10/00

Amended effective February 10, 2004

§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.

Adopted effective 2/10/00

§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 sewerage 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.

Adopted effective 2/10/00

Amended effective February 10, 2004

§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.

Adopted effective 2/10/00

DIVISION 3. PLAT APPROVAL
Texas Administrative Code §§364.51-364.57

§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.

Adopted effective 2/10/00

§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. 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 §364.32(b) of this title does not meet the water quality standards as set forth in that section without treatment 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. 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 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 §285.4(c), including the site evaluation described by 30 TAC §285.30 and all other information required by the county's OSSF order.

Adopted effective 2/10/00

Amended effective February 10, 2004

§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.

Adopted effective 2/10/00

§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. Figure: 31 TAC §364.54(a)

- (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.
 - (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. Figure: 31 TAC §364.54(c)(3)
- (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;
 - (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.

Adopted effective 2/10/00

Amended effective February 10, 2004

§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 OSSF 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.

Adopted effective 2/10/00

Amended effective February 10, 2004

§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.
- (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.

Adopted effective 2/10/00

§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 subdivided 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.

Adopted effective 2/10/00

DIVISION 4. ENFORCEMENT
Texas Administrative Code §§364.71-364.72

§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.

Adopted effective 2/10/00

§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.

Adopted effective 2/10/00

Figure: 31 TAC §364.32(a)(1)

APPENDIX 1A. SAMPLE FORM FOR WATER SERVICE AGREEMENT

AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED
_____ SUBDIVISION

PARTIES: This Agreement is by and between the Utility and the Subdivider, to wit:

The Utility is the governing board or owner of a retail public utility which supplies of drinking water known as _____.

The Subdivider is _____,
who is the owner, or the authorized agent of the owner, of a tract of land in _____
County, Texas, that has been proposed to be divided into a subdivision (the Subdivision) known as _____.

TERMS: This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to _____ County for its approval.

The Subdivider plans to construct for the Subdivision a drinking water distribution system to be connected to the Utility's public water system. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the drinking water flow anticipated to be needed by the Subdivision under fully built-out conditions (the anticipated water flow) to be approximately _____ gallons daily.

The Utility covenants that it has or will have the ability to provide the anticipated water flow for at least thirty years, and that it will provide that water flow. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision's water distribution system has been connected to the Utility's water supply system.

The Subdivider covenants that the water distribution system will be constructed as shown in the Plans and as provided for through the plat-approval process so that the residents of the lots of the Subdivision may receive drinking water service from the Utility. Upon completion of the water distribution system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the water distribution system.

The Subdivider has paid the Utility the sum of \$ _____ which sum represents the total costs of water meters, water rights acquisition fees, and all membership or other fees associated with connecting the individual lots in the Subdivision to the Utility's water supply system.

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by _____ County or by a municipality whose approval is required.

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that he or she is authorized to sign this Agreement on behalf of the Utility. By affixing his or her signature to this Agreement, the person signing for the Subdivider warrants that he or she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on _____, 20____.

The Utility

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

The Subdivider

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

Figure: 31 TAC §364.33(a)(2)

APPENDIX 1B. SAMPLE FORM FOR WASTEWATER SERVICE AGREEMENT

AGREEMENT REGARDING WASTEWATER SERVICE FOR THE PROPOSED
SUBDIVISION

PARTIES: This Agreement is by and between the Utility and the Subdivider, to wit:

The Utility is the governing board or owner of a retail public utility which provides wastewater treatment and is known as _____.

The Subdivider is _____,
who is the owner, or the authorized agent of the owner, of a tract of land in _____
County, Texas, that has been proposed to be divided into a subdivision (the Subdivision) known as _____.

TERMS: This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to _____ County for its approval. The Subdivider plans to construct for the Subdivision a wastewater collection system to be connected to the Utility's wastewater treatment system. Such wastewater will consist of domestic sewage, i.e., waterborne human waste and waste from domestic activities such as bathing, washing, and food preparation. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the wastewater flow projected from the Subdivision under fully built-out conditions (the projected wastewater flow) to be approximately _____ gallons daily.

The Utility covenants that it has or will have the capacity to treat the projected wastewater flow, and that it will treat that wastewater flow for at least thirty years. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision's wastewater collection system has been connected to the Utility's wastewater treatment plant.

The Subdivider covenants that the wastewater collection system will be constructed as shown in the Plans and as provided for through the plat approval process so that the residents of the lots of the Subdivision may receive wastewater treatment service from the Utility. Upon completion of the wastewater collection system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the wastewater collection system.

Insert the following paragraph if the Utility imposes any fees for connection of individual lots to the Utility's wastewater collection and treatment system:

The Subdivider has paid the Utility the sum of \$ _____ which sum represents the total costs of tap fees, capital recovery charges, and other fees associated with connecting the individual lots in the Subdivision to the Utility's wastewater collection and treatment system.

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by _____ County or by a municipality whose approval is required.

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that he or she is authorized to sign this Agreement on behalf of the Utility. By affixing his or her signature to this Agreement, the person signing for the Subdivider warrants that he or she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on _____, 20 ____.

The Utility

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

The Subdivider

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

Figure: 31 TAC §364.54(a)

APPENDIX 2A: SUBDIVISION CONSTRUCTION AGREEMENT SAMPLE FORM

1. Parties. This Subdivision Construction Agreement (the Agreement) is by and between the County and the Subdivider. The County is _____ County, Texas, acting by and through its Commissioners Court, or authorized representative as designated by the Commissioners Court. The Subdivider is _____, who is the owner, or the authorized agent of owner, of a tract of land located within the geographic area and jurisdiction of the County.

2. Effective Date. This Agreement is effective on the date the County approves the final plat for the subdivision described in Paragraph 3 of this agreement (the Effective Date).

Recitals

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the _____ subdivision, as shown in County's File Number (the Subdivision) and more particularly described by the metes and bounds description attached and incorporated into this Agreement as Exhibit A (the Property); and

4. Subdivider seeks authorization from the County to subdivide the Property in accordance with the requirements imposed by Texas statute and the County's ordinances, regulations, and other requirements; and

5. County ordinances require the completion of various improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effects of substandard subdivisions; and

6. The purpose of this Agreement is to protect the County from the expense of completing subdivision improvements required to be installed by the Subdivider; and

7. This agreement is authorized by and consistent with state law and the County's ordinances, regulations, and other requirements governing development of a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

Subdivider's Obligations

8. Improvements. The Subdivider agrees to construct and install, at Subdivider's expense, all subdivision improvements required to comply with County orders, ordinances, regulations, and policies governing subdivision approval, specifically including without limitation those improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, the Improvements, any one of which is an Improvement). All Improvements shall be constructed in conformity to the County's requirements, procedures, and specifications, pursuant to construction plans, permits, and specifications approved by the County prior to commencement of construction, and subject to

inspection, certification, and acceptance by the County.

9. **Completion.** Unless a different time period is specified for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than three (3) years after the Effective Date (the Completion Date); provided, however, that if the Subdivider or the Issuer delivers to the County no later than the Completion Date a substitute Letter of Credit satisfying the criteria established by Paragraph 11 and which has an expiration date no earlier than one year from the Completion Date, then the Completion Date shall be extended to the expiration date of that substitute Letter of Credit or any subsequent substitute Letter of Credit provided in accordance with this Paragraph. Upon completion of each of the Improvements, the Subdivider agrees to provide to the County a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

10. **Warranty.** The Subdivider warrants the Improvements constructed by Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees will be free from defects for a period of one (1) year from the date the County accepts the dedication of a completed Improvement or group of Improvements (the Warranty Period), as such Improvement or group of Improvements is separately identified and listed on Exhibit B, except the Subdivider does not warrant the Improvements for defects caused by events outside the control of the Subdivider or the Subdivider's agents, contractors, employees, tenants, or licensees. The Subdivider agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the County's acceptance of dedication of any of the Improvements, the County may require the Subdivider to post a maintenance bond or other financial security acceptable to the County to secure the warranty established by this Agreement. If the Improvements have been completed but not accepted, and neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider or the Issuer the County shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the County.

11. **Security.** To secure the performance of Subdivider's obligations under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the County, a cash deposit to be held by the County in escrow, or an irrevocable letter of credit in the amount of _____ Dollars (\$_____) (the Stated Amount), which amount is the estimated total cost of constructing each of the Improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to the County, shall have an expiration date no earlier than one year from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the County's financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the Issuer). During the term of this Agreement and subject to the terms of Paragraph 22 of this Agreement, the County may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of Subdivider's obligations under this agreement. A letter of credit satisfying the criteria of this Paragraph (and any substitute or confirming letter of credit) is referenced to in this agreement as the "Letter of Credit."

12. **Reduction In Letter of Credit.** After the acceptance of any Improvement, the amount which the County is entitled to draw on the Letter of Credit shall be reduced by an amount equal to ninety percent (90%) of the Quoted cost of the accepted Improvement, as shown on Exhibit B. Upon completion of an Improvement, at the written request of Subdivider or Issuer, and if neither the Subdivider nor Issuer is then in default under this agreement or the Letter of Credit, the County shall complete, execute, and deliver to the Issuer a reduction letter verifying the acceptance of the Improvement and documenting that the Stated Amount has been reduced by stating the balance of the Stated Amount remaining after the reduction required by the first sentence of this Paragraph. No later than sixty (60) days after its receipt of a written request to reduce the Stated Amount submitted by the Subdivider or the Issuer, the County shall determine the Estimated Remaining Cost and shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to the Estimated Remaining Cost if the County determines the Stated Amount exceeds the Estimated Remaining Cost. Notwithstanding the preceding sentence, the County shall not be required to authorize reductions in the Stated Amount more frequently than every ninety (90) days. As used in this Paragraph, "Estimated Remaining Cost" means the amount the County estimates to be the cost of completing all Improvements which are incomplete as of the time of such estimate.

County's Obligations

13. **Inspection and Certificate.** The County agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the standards and specifications for such Improvements, to certify the Improvements as being in compliance with County standards and specifications. The inspections and certifications will be conducted in accordance with standard County policies and requirements. The Subdivider grants the County, its agents, employees, officers, and contractors an easement and license to enter the Property to perform such inspections as it deems appropriate.

14. **Notice of Defect.** The County will provide timely notice to the Subdivider whenever inspection reveals that an Improvement is not constructed or completed in accordance with the standards and specifications for health or safety, and if the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than five (5) days and the County may declare a default under this Agreement if not satisfied that the defect is cured after the cure period. Any cure period should be reasonable in relation to the nature of the default.

15. Use of Proceeds. The County will disburse funds drawn under the Letter of Credit only for the purposes of completing the Improvements in conformance with the County's requirements and specifications for the Improvements, or to correct defects in or failures of the Improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on the funds. All funds obtained by the County pursuant to one or more draws under the Letter of Credit shall be maintained by the County in an interest bearing account or accounts until such funds, together with accrued interest thereon (the Escrowed Funds), are disbursed by the County. The County may disburse all or portions of the Escrowed Funds as Improvements are completed and accepted by the County, or in accordance with the terms of a written construction contract between the County and a third party for the construction of Improvements. Escrowed Funds not used or held by the County for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with interest accrued thereon, shall be paid by the County to the Issuer of the Letter of Credit no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvement using Escrowed Funds, whichever date is earlier.

16. Return of Excess Escrowed Funds. No later than sixty (60) days after its receipt of a written request from the Subdivider or the Issuer to return Excess Escrowed Funds to the Issuer, the County shall disburse to the Issuer from the Escrowed Funds all Excess Escrowed Funds. For purposes of this Paragraph, "Excess Escrowed Funds" means the amount of Escrowed Funds exceeding one hundred ten percent (110%) of the estimated cost of constructing Improvements the County intends to construct but which have not been accepted, as such cost is shown on Exhibit B. Notwithstanding the first sentence in this Paragraph, the County shall not be required to disburse Excess Escrowed Funds more frequently than every ninety (90) days.

17. Cost Participation by County. If the County and Subdivider agree the County will participate in the expense of installing any of the Improvements, the respective benefits and obligations of the parties shall be governed by the terms of a Community Facilities Construction Agreement executed by the parties thereto, and the terms of that agreement shall control to the extent of any inconsistency with this Agreement.

18. Conditions of Draw on Security. The County may draw upon any financial guarantee posted in accordance with Paragraph 11 upon the occurrence of one or more of the following events:

- (a) Subdivider's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement;
- (b) Subdivider's failure to renew or replace the Letter of Credit at least forty-five (45) days prior to the expiration date of the Letter of Credit;
- (c) Subdivider's failure to replace or confirm the Letter of Credit if the Issuer fails to maintain the minimum rating acceptable to the County, in accordance with Paragraph 11 of this Agreement; or
- (d) Issuer's acquisition of the Property or a portion of the Property, through foreclosure or an assignment or conveyance in lieu of foreclosure.

The County shall provide written notice of the occurrence of one or more of the above events to the Subdivider, with a copy provided to the Issuer. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraph (a), the County shall provide notice to the Subdivider and the Issuer of the specific default and the notice shall include a statement that the County intends to perform some or all of Subdivider's obligations under Paragraph 8 for specified Improvements if the failure is not cured. The notice with respect to a default under subparagraph (a) shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit, unless, in the reasonable opinion of the County, the failure creates an immediate and substantial harm to the public health or safety, in which case the notice shall state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before presentation of a draft on the Letter of Credit. In the event of a draw based on subparagraph (a), the County shall be entitled to draw in the amount it considers necessary to perform Subdivider's obligations under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement it states its intent to construct or complete in accordance with the standards and specifications for such improvement. The subdivider hereby grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such Improvements. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraphs (b), (c), or (d), the notice shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit. In lieu of honoring a draft based on an event described in subparagraphs (b) or (c), the Issuer or the Subdivider may deliver to the County a substitute Letter of Credit if the event is described by subparagraph (b) or a substitute or confirming Letter of Credit if the event is described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring a draft based on an event described in subparagraph (d), the Issuer may deliver to the County a substitute or confirming Letter of Credit.

19. Procedures for Drawing on the Letter of Credit. The County may draw upon the Letter of Credit in accordance with Paragraph 18 by submitting a draft to the Issuer in compliance with the terms of the Letter of Credit governing such draft. The Letter of Credit must be surrendered upon presentation of any draft which exhausts the Stated Amount of such Letter of Credit. The County may not draft under a Letter of Credit unless it has substantially complied with all its obligations to the Issuer under this Agreement and has properly completed and executed the draft in strict accordance with the terms of the Letter of Credit.

20. Measure of Damages. The measure of damages for breach of this Agreement by the Subdivider is the reasonable cost of completing the Improvements in conformance with the County's requirements, procedures, and specifications. For Improvements upon which construction has not begun, the estimated cost of the Improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of the Letter of Credit establishes the maximum amount of the Subdivider's liability.

21. Remedies. The remedies available to the County, the Subdivider, and Issuer under this Agreement and the laws of Texas are cumulative in nature.

22. Provisions for the Benefit of Issuer. The provisions of Paragraphs 9, 10, 11, 12, 15, 16, 18, 19,

21, 22, 23, 25, 26, 27, 28, 29, 30, 32, and 36 of this Agreement for the benefit of the Issuer may not be modified, released, diminished, or impaired by the parties without the prior written consent of the Issuer.

23. **Third Party Rights.** No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the County (including without limitation a trustee in bankruptcy) have any interest in or claim to funds drawn on the Letter of Credit and held in escrow by the County in accordance with this Agreement. Notwithstanding the preceding sentence, the Issuer shall have a right of action to enforce any provision of this Agreement where the Issuer is specifically named as a beneficiary of such provision pursuant to Paragraph 22.

24. **Indemnification.** The Subdivider hereby expressly agrees to indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider. The Subdivider is not an employee or agent of the County. Notwithstanding anything to the contrary contained in this agreement, the Subdivider does not agree to indemnify and hold the County harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the County, its agents, contractors, employees, tenants, or licensees.

25. **No Waiver.** No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the County, the Subdivider, or the Issuer, their heirs, successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

26. **Attorney's Fees.** Should either party or the Issuer, to the extent Issuer is named as specific beneficiary, be required to resort to litigation to enforce the terms of this agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in their entirety.

27. **Assignability.** The benefits and burdens of this Agreement are personal obligations of the Subdivider and also are binding on the heirs, successors, and assigns of the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the express written approval of the County. The County's written approval may not be withheld if the Subdivider's assignee explicitly assumes all obligations of the Subdivider under this Agreement and has posted the required security. The County agrees to release or reduce, as appropriate, the Letter of Credit provided by the Subdivider if it accepts substitute security for all or any portion of the Improvements. The County, in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Subdivider and the Issuer.

28. **Expiration.** This Agreement shall terminate upon the expiration of the approval of the proposed final plat of the Subdivision or if the Subdivision is vacated by the Subdivider.

29. **Notice.** Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Subdivider:

Attn: _____

Printed Name: _____

Office or Position: _____

Address: _____

if to County:

Attn: _____

Printed Name: _____

Office or Position: _____

Address: _____

if to the Issuer: at Issuer's address shown on the Letter of Credit.

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of the change is provided to the other party in accordance with the provisions of this Paragraph.

30. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

31. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement or the Issuer, whether arising out of or relating to the Agreement or the Letter of Credit, will be deemed to be proper only if such action is commenced in District Court for _____ County, Texas, or the United States District Court for the _____ District of Texas, _____ Division. The Subdivider expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal. The Issuer, by providing a Letter of Credit pursuant to the terms of this Agreement, expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

32. Release Upon Completion. Upon acceptance of all Improvements, the County agrees: (a) to complete, execute and deliver to the Subdivider and the Issuer a release in recordable form releasing the Subdivider and Subdivider's heirs, successors and assigns, and the Property from all provisions of this Agreement except those contained in Paragraph 10, and (b) to return to the Issuer the Letter of Credit and any Escrowed Funds not expended or obligated by the County for the completion of the Improvements.

33. Captions Immaterial. The numbering, order, and captions or headings of the paragraphs of this agreement are for convenience only and shall not be considered in construing this agreement.

34. Entire Agreement. This Agreement contains the entire agreement between the parties and correctly sets forth the rights, duties, and obligations of each to the other as of the Effective Date. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent written modification executed by both parties.

35. Authorization to Complete Blanks. By signing and delivering this agreement to the appropriate official of the County, the Subdivider authorizes completion of this Agreement by filling in the Effective Date below.

36. Binding Agreement. The execution and delivery of this agreement and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate and governmental action of the County. This Agreement has been duly executed and delivered by each party, and constitutes a legal, valid, and binding obligation of each party enforceable in accordance with the terms as of the effective Date. These representations and agreements are for the benefit of the Issuer, and have been relied on by the Issuer in issuing the Letter of Credit.

EXECUTED by the parties to be effective as of the _____ day of _____, 20____.

County Official

Subdivider

[SIGNATURES OF THE PARTIES TO BE ACKNOWLEDGED]

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT B: SUBDIVISION IMPROVEMENTS

Subdivision Improvements. Subdivider and County agree the following improvements are required in connection with the approval and development of the Subdivision (collectively, the Subdivision Improvements). Subdivider agrees to deliver a financial guarantee acceptable in form and substance to the County in an amount equal to the Estimated Cost of Completion listed below, as follows:

Description of Improvement(s)	Estimated Cost of Completion
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a)

b)

c)