

SUBDIVISION REGULATIONS
OF LYNN COUNTY, TEXAS

APPROVED BY THE LYNN COUNTY COMMISSIONERS' COURT

AMENDED AND EFFECTIVE may 24, 2010

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**SUBDIVISION REGULATIONS
OF
LYNN COUNTY, TEXAS**

SECTION 1: Jurisdiction

- a. The standards herein apply to every owner of a tract of land not exempted by subsection (c) located within the extraterritorial jurisdiction of a municipality who divides the tract in two or more parts of five (5) acres or less to lay out a subdivision of the tract, to lay out suburban, building, or other lots or 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. (See Tex. Loc. Gov't Code Ann. Sec. 232.001 (a) (Vernon 1997)).
- b. The standards herein further apply to every owner of a tract of land located outside the extraterritorial jurisdiction of a municipality who divides the tract into two or more parts (of 5) to lay out a subdivision of the tract, 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. (See Tex. Loc. Gov't Code Ann. Sec. 232.001 (a) Vernon 1997)).
- c. The standards herein do not apply to an owner of a tract of land located within the extraterritorial jurisdiction of a municipality who divides the tract into two or more parts greater than five acres where each part has access and no public improvement is being dedicated. (See Tex. Loc. Gov't Code Ann. Sec. 212.004 (a) Vernon 1997)).
- d. The standards herein apply regardless of whether the division is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey or by using any other method. (See Tex. Loc. Gov't Code Ann. Sec. 212.004 (a) and 232.001 (a) Vernon 1997)).

SECTION 2: Definitions

- 2.01 Alley, a public street at least twenty feet in width having no official names, which is designed primarily for installation of and access to public utilities. The alley shall extend only secondary access to the abutting property unless primary access is approved by the site plan or plat.
- 2.02 Block, a parcel of land entirely surrounded by public highways, streets, streams, railway, rights-of-way, parks, etc., or a combination thereof.
- 2.03 Building Line or Setback Line, a line established, in general, parallel to the front street line. No building or structure may be permitted in the area between the building line and the street right-of-way.
- 2.04 Commission, the Texas Commission on Environmental Quality and any of its predecessor or successor entities.
- 2.05 Commissioners' Court, the Commissioners' Court of Lynn County.
- 2.06 County, Lynn County.
- 2.07 County Judge, the County Judge of Lynn County.
- 2.08 County Road, see "street".
- 2.09 Collector Street, a street or road collecting traffic from other streets and collectors and serving as the most direct route to and arterial, State highway, or neighborhood center.
- 2.10 Cul-de-sac, a short public street having but one opening or access to another public street and is terminated by a permanent vehicular turnaround.
- 2.11 Dead-end Street, that portion of a public street, that initially has one opening or access to another public street and which will be extended at a later date.
- 2.12 Easement, a right given by the owner of a parcel of land to another person, public agency or private corporation for specific and limited use of that parcel.
- 2.13 Engineer, a person duly authorized under the provisions of the Texas Engineering Registration Act to practice the profession of engineering.
- 2.14 Extraterritorial Jurisdiction (ETJ), as defined by Tex. Loc. Gov't Code Ann. Sec. 42.021 (Vernon 1987) the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located:
- a. within one-half mile of those boundaries, the case of a municipality with fewer than 5,000 inhabitants;
 - b. within one mile of those boundaries, in the case of a municipality with 5,000 to 24,999 inhabitants.
- 2.15 Flood Plain, the area subject to inundation by flood, having a given percentage of probability of occurrence in any given year, based on existing or projected conditions of development within the watershed area.
- 2.16 Lot, any plot of land occupied or intended to be occupied by one building or a group of buildings, and accessory buildings and uses, and having its principal frontage on a street.
- 2.17 Manufactured Home Rental Communities, as defined by Tex. Loc. Gov't Code Ann. Sec. 232.007 (Vernon 1987) a plot or tract of land that is separated into two or more spaces or lots that are rented, leased or offered for rent or lease, for a term of less than 60 months without a

purchase option, for the installation of manufactured homes for use and occupancy as residences.

- 2.18 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.
- 2.19 Owner, the record owner, the equitable owner, person in possession or the person with the greatest right to possession of the land.
- 2.20 Plat, a map of a tract or land which represents the plan for the development of a subdivision.
- a. Preliminary Plat, a map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed development.
- b. Final Plat, a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other important information.
- 2.21 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.
- 2.22 Roadway, that portion of any street or road, between curbs or shoulders, designated for vehicular traffic.
- 2.23 Standard Road, a street or road that meets the specified right-of-way requirements for the type of particular street or road that it is.
- 2.24 Street, any dedicated public thoroughfare which affords the principal means of access between various land use activities.
- 2.25 Subdivider or Developer, any person, partnership, firm, association, corporation (or combination thereof), or any officer, agent, employee, servant or trustee thereof, who performs or participates in the performing of any act toward the subdivision of land, within the intent, scope and purview of these regulations.
- 2.26 Subdivision, the division of a tract or parcel of land into two (2) or more parts for the purpose of laying out lots, streets, and other land uses, for purchase, rent, lease or use by members of the public.
- 2.27 Purchaser, shall include purchasers under executory contracts for conveyance of real property.
- 2.28 Retail Public Utility, any entity meeting the definition of a retail public utility as defined in Water Code §13.002.

- 2.29 Sewage 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.
- 2.30 Water Facilities, any devices or systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use or consumption.
- 2.31 TAC, Texas Administrative Code, as compiled by the Texas Secretary of State.
- 2.32 Subdivided Tract, a tract of land as a whole that is subdivided, not an individual lot in a subdivided tract or land.
- 2.33 Substandard Road, a street or road which does not meet the specified right-of-way requirements for that particular street or road.
- 2.34 Vacate, to annul or cancel a subdivision plat, street or easement.

SECTION 3: Administration

3.01 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.

3.02 Responsibility for Administration

The County Attorney's Office will have the responsibility to administer and enforce these subdivision regulations. (See Tex. Loc. Gov't Code Ann. Sec. 232.005 (a) (Vernon 1987)).

3.03 Amendments

The Lynn County Commissioners' Court may from time to time adopt and amend these regulations, and the rules, procedures and policies associated with these regulations. The regulations may be amended by the Commissioners' Court at any time subject to open meetings laws.

3.04 Validity and Repeal

If any part, section, paragraph, clause, provision or portion of these regulations is repealed by the Commissioners' Court or held to be invalid or unconstitutional by a court of competent jurisdiction, such a holding will not affect any other section, paragraph, clause, provision or portion of these regulations.

3.05 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 has received approval of a final plat of the tract; and 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.

3.06 Supersession

These rules supersede any conflicting rules of the County.

3.07 Criteria for Subdivisions that Occurred Prior to September 1, 1989

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.

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.

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.

Special criteria. The commissioners court may approve the plat of a residential lot which does not comply with the provisions of 13.05 of this title (Plat Required), 13.02 of this title (Setbacks), 13.01(d) of this title (Number of Dwellings per Lot), 7.12 of this title (Final Engineering Report), and Section 9 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.

- a. Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.
- b. 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:
 1. a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;
 2. 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.
- e. 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:
 1. 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;
 2. a plat was required for the subdivision, but has not been filed with the county by the subdivider legally obligated to file it;
 3. an existing, currently occupied residential dwelling is located on the lot;
 4. existing water and sewer services which comply with the minimum standards set forth herein are available to the lot; and
- f. 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.

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.

SECTION 4: Platting Fees

4.01 Platting Fee Outside an Extraterritorial Jurisdiction

The platting fees paid at the time of filing the preliminary plat include the preliminary plat and one final plat.

At the time of filing the preliminary plat, a platting fee of \$75.00 per lot, shall be required for each tract outside the extraterritorial jurisdiction (ETJ) of any municipality in Lynn County. An Additional fee of \$75.00 per lot shall be required for each lot in excess of one (1) acre. Maximum fee under this paragraph shall not exceed \$2,500.00

After the first final plat is filed, a platting fee of \$75.00 per lot shall be required on each subsequent final plat filed for as long as a valid preliminary plat exists. An additional fee of \$75.00 per lot shall be required for each lot in excess of one acre. Maximum fee under this paragraph shall not exceed \$750.00

4.02 Platting Fee Within an Extraterritorial Jurisdiction

The platting fee paid at the time of filing the preliminary plat included the preliminary plat and one final plat.

At the time of filing the preliminary plat, a platting fee of \$75.00 per lot shall be required for each tract in Lynn County that is inside the extraterritorial jurisdiction of any municipality. An additional fee of \$75.00 per lot shall be required for each lot in excess of one acre. However, a credit of up to one-third of the amount assessed by the County under this subsection shall be applied if a platting fee has been paid to a municipality for the same tract. Maximum fee under this paragraph shall not exceed \$2,500.00

After the first final plat if filed, a platting fee of \$75.00 per lot shall be required on each subsequent final plat filed for as long as a valid preliminary plat exists. An additional fee of \$75.00 per lot shall be required for each lot in excess of one acre. Maximum fee under this paragraph shall not exceed \$750.00.

4.03 Filing Fees

The platting fees required by the section are in addition to and do not include the County Clerk's filing fees.

SECTION 5: Extraterritorial Jurisdiction and Metropolitan Planning Organization

- a. A Subdivider of a tract of land located within the extraterritorial jurisdiction of a municipality must obtain consent of both the municipality and the County to subdivide the tract. The County shall independently apply its subdivision regulations to subdividers of parcels located in the extraterritorial jurisdiction of a municipality after the municipality has approved the plat and so long as the regulations do not conflict with those of the municipality. When specific regulations do conflict, the more stringent of the two regulations shall apply. (See Tex. Loc. Gov't Code Ann. Sec. 242.001 (c) (Vernon 1987) and Tex. Att'y Gen. No. JM-365 (1985)).
- b. Extraterritorial Jurisdiction, the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located:
 1. within one-half mile of those boundaries, in the case of a municipality with fewer than 5,000 inhabitants; or
 2. within one mile of those boundaries, the case of a municipality with 5,000 to 24,999 inhabitants.

(See Tex. Loc. Gov't Code Ann. Sec. 42.021 (Vernon 1987))
- c. A Subdivider of a tract of land located within the jurisdiction of the Metropolitan Planning Organization in addition to fulfilling County and municipality regulations must fulfill any requirements the Organization may have. (See Texas Administrative Code Tit. 1, Sec. 5.52 (1988)).

SECTION 6: Procedure

6.01 Preliminary Plat

A Preliminary Plat must first be prepared in accordance with Section 7.

6.02 Final Plat

A Final Plat must subsequently be prepared in accordance with Section 8.

6.03 Approval by Commissioners' Court

Approval of all plats shall be by the Commissioners' Court evidenced by an order entered in the minutes of the Court. The Commissioners' Court shall not approve a plat unless the plat and the applicable water and sewer documents have been prepared. The Commissioners' Court shall refuse to approve and authorize any plat of a subdivision which does not meet the requirements set forth in these regulations. If the plat is not approved, it must be returned to the owner, and the reasons of the disapproval must be given to the Subdivider in writing. If the Preliminary Plat is approved by the Commissioners' Court, the Subdivider has the following options concerning the Final Plat:

Option 1 – Approval and Filing Prior to Construction of Streets:

If the Subdivider desires to file the Final Plat prior to completion of the construction of the streets in a subdivision, the Subdivider must provide appropriate financial security in accordance with these regulations. Financial security may be arranged in one of the following methods:

- a. A construction bond may be filed by the Subdivider payable to the County Judge in the amount determined by the Commissioners' Court to be adequate to ensure proper construction of the roads and streets all infrastructure in the subdivision but not to exceed the estimated cost of construction of the roads and streets. The bond must be a surety provided by a surety company licensed to operate in the State of Texas and approved by the Commissioners' Court. The bond must be conditioned that the roads and streets infrastructure will be constructed in accordance with the specifications adopted by the Commissioners' Court.
- b. The owner may provide funds in escrow, certificate of deposit, an irrevocable letter of credit or other financial instrument satisfactory to the Commissioners' Court in the amount of the cost of construction. If a letter of credit is used, it must list as the sole beneficiary the County Judge and be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets all infrastructure in the subdivision in accordance with the specifications adopted by the Commissioners' Court and within a reasonable time set by the Commissioners' Court.

After acceptable financial security is filed with the County, the County Judge will sign the Final Plat and the owner can then file the Final Plat with the office of the Lynn County Clerk.

Option 2 – Approval Subsequent to Construction of Streets:

If the owner desired not to guarantee the construction, the Final Plat will be withheld from filing until the completion of the construction of the streets improvements. At such time that the Commissioners' Court determines that the construction is completed according to the Lynn County specifications, the County Judge will sign the final plat and the Subdivider can file the Final Plat with the Office of the Lynn County Clerk. (See Tex. Loc. Gov't Code Ann. Secs. 232.002, 232.004, and 232.0045 (Vernon 1987)).

6.04 Acceptance of Road for Maintenance

Approval of a Final Plat does not mean the Commissioners' Court has accepted a road or roads and will maintain such road or roads. The standards in sec. 9 herein must be completed before the Commissioners' Court may accept a road for maintenance. (See Langford v. Kraft, 498 S.E. 2d 42, 49 (Tex. Civ. App., Beaumont, 1973, Ref. N.R.E.))

6.05 Recording of Plat

- a. The plat must be filed and record with the County Clerk. The County Clerk or a deputy of the clerk with whom a plat or replat of a subdivision of real property is filed for recording shall note whether the plat or replat is required by law to be approved by the County or municipal authority or both. The Clerk or deputy may not record a plat or replat requiring approval unless it is approved as provided by the appropriate authority and unless the plat or replat has attached to it the documents required regarding water and sewer. (See Tex. Prop. Code Ann. Sec 12.002 (Vernon 1984)).
- b. To be recorded, the plat must describe the subdivision as follows:
 1. by metes and bounds;
 2. locate the subdivision with respect to an original corner of the original survey or which it is a part; and
 3. state the dimensions of the subdivision and of each lot, street, alley, square, part, or other parts of the tract intended to be dedicated to public use or for the use of the purchasers owners of lots fronting on or adjacent to the street, alley, square, park or other part.
 4. The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgement of deeds.

(See Tex. Loc. Gov't Code Ann. Sec 232.001 (b) (c) (Vernon 1987))
- c. If a plat or replat does not indicate whether or not land covered by the plat or replat is in the extraterritorial jurisdiction of a municipality, the County Clerk may require the person filing the plat or replat for recording to file with the Clerk an affidavit stating that information. (See Tex. Prop. Code Ann. Sec. 12.002 (a) (Vernon 1984)).
- d. A person who subdivides real property may not use the subdivision's description in a deed of conveyance, a contract for a deed or a contract of sale or other executory contract to convey that is delivered to a purchaser unless the plat or replat of the subdivision is approved and is filed for record with the County Clerk and unless the plat or replat has attached to it the documents required by Subsection 7.08 Water and Sewer. (See Tex. Prop. Code Ann. Sec. 12.002 (c) (Vernon 1984)).

6.06 Copy Retained by Commissioners' Court

Lynn County Commissioners' Court will retain the original copy of the Final Plat.

SECTION 7: Preliminary Plat

(See Tex. Loc. Gov't Code Ann. Sec. 232.001 (a) (Vernon 1987) for provisions in this section)

7.01 General

The Subdivider must prepare a Preliminary Plat, which must be so designated, and submit seven (7) paper copies of it to the Lynn County Commissioners' Court. The Plat must be submitted at least thirty (30) days before the meeting at which the approval of the Lynn County Commissioners' Court is requested. The Preliminary Plat will remain valid for eighteen (18) months from the date of approval, after which, it will be automatically null and void unless the Plat is renewed. The Preliminary Plat must show the information required by sections 7.02 through 7.10.

7.02 Subdivision Name

The Preliminary Plat must provide the proposed name of the subdivision. The proposed name of the subdivision must not duplicate or be easily confused with other subdivisions located in Lynn County.

7.03 Relevant Parties

The Preliminary Plat must provide the names, addresses and telephone number of the Owner(s), Subdivider(s), and Developer(s) of the proposed subdivision and the name, address and telephone number of any Engineer, Landscape Architect, Site Planner, and Surveyor responsible for the preparation of the Preliminary Plat.

7.04 Ownership

All contiguous land under common ownership shall be included in the preliminary plat.

7.05 Lot, Block, and Street and Utility Layout

The Preliminary Plat must show the location, name and width of existing and proposed streets, roads, lots, blocks, alleys, building lines, water and sewer system components, easements, parks, school sites and any other features relating to the proposed subdivision. Each lot or tract shall be identified by number. The Plat must show the outline of adjacent properties for a distance of not less than one-hundred (100) feet, and how the streets, in the proposed subdivision will connect with the adjacent land or with adjacent subdivisions. The Plat must also indicate the current owner and use of all adjacent properties. The acreage of the proposed subdivision must be shown on the Plat.

7.06 Drainage and Topography

The Preliminary Plat must show the physical features of the property, including water courses, playa, lakes, ravines, culverts, backfills, present structures, existing wells, existing UUE/pipelines and street layout. Adequate drainage must be provided for proposed subdivisions and additions which are subject to flood conditions. All culverts and backfills must meet County specifications. The topography of the tract must be shown on the Preliminary Plat by means of contours of five (5) foot intervals ties to United States Geological Survey (USGS) maps. Contours of lesser intervals will be required if that information is available.

7.07

Drawing Requirements

The Preliminary Plat must show the North point, scale and date. The Preliminary Plat must be drawn to the following scale: 1 inch per 50 feet for plats one acre or less; 1 inch per 100 feet for plats one acre up to 160 acres; 1 inch per 200 feet for plats over 160 acres. The Preliminary Plat submitted must be one of the following three dimensions:

- a. 18" x 24"
- b. 24" x 36"
- c. 36" x 36"

7.08

Water and Sewage Service

~~The owner(s) must submit a plan for providing utility service within the proposed subdivision and must show the same on the Plat. The proposed water supply should be clearly indicated, i.e., municipal water, rural water supply corporation, privately owned water system, individual wells, etc., including location of fire hydrants, if any. All water supplies must be approved by the Texas Department of Health. The plan for sewage disposal should be clearly indicated, i.e., municipal sewer service, privately owned/organized sewage disposal system, private sewage facilities, etc. If it is the Owner's intent that each lot purchaser shall provide private sewage facilities to each lot owner's need, those facilities must meet the requirements of the Lynn County Health Department.~~

a Public water systems.

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 Section 13 and referenced in 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 ground water 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. The engineering report shall be signed and dated by a licensed professional engineer.

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, which 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 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 13.04 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 13.04 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.

c. **Organized sewerage facilities.**

1. 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 and referenced in Section 13 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.
2. 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.

d. **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.

7.09 **Subdivisions with Extraterritorial Jurisdictions**

If the location of the proposed subdivision is within the extraterritorial jurisdiction of a municipality, the Preliminary Plat must be approved by the municipality having that jurisdiction prior to the submission of the Preliminary Plat to the Commissioners' Court. Where the subdivision lies within an extraterritorial jurisdiction and the regulations of Lynn County and the municipality conflict, the more stringent of the regulations will apply.

7.10 **Land Use**

The Preliminary Plat must designate the proposed uses of land within the subdivision whether for residential, commercial, industrial or public use, such as parks, churches, etc.

7.11

Miscellaneous

The following, if not shown on the plan, shall accompany the submission of all Preliminary Plats:

- a. Where outside the ETJ, a certification from service agencies indicating their satisfaction with the location and extent of utility easements and plan arrangements stating that their facilities are sufficient to provide anticipated service. If certifications are not submitted, preliminary plans showing all proposed easements shall be provided at no cost to the County for each agency serving the area. The County will forward plans and comment sheets to these agencies requesting service information and easement location comments. Approval shall be obtained for any private waste disposal facilities proposed and shall be acknowledged on the Final Plat.
- b. A general summary description of any deed restrictions proposed indicating the lots so restricted and all pertinent documents pertaining to the creation of a property owners' association responsible for maintenance of private streets or common areas and providing means for the enforcement of maintenance obligations, if such private ownership is to be established.

7.12

Engineer's Report and Estimate of Probable Construction Costs

A signed, sealed, and dated estimate of probable construction cost shall be submitted with the preliminary plat, and resubmitted if changes are made prior to final plat submittal.

7.13

Approval Procedure

If the Commissioners' Court does not approve, disapprove or ask for clarification of the Preliminary Plat within thirty (30) days of the date of the initial Lynn County Commissioners' Court meeting at which approval of the Preliminary plat is requested, it will be deemed approved and so endorsed by the Commissioners' Court. Approval of the Preliminary Plat does not constitute acceptance of the proposed subdivision, but is merely an authorization to proceed with the preparation of the Final Plat. No grading of streets or construction is authorized in the proposed subdivision before the Final Plat is approved by the Commissioners' Court, except as allowed by the Commissioners' Court as specified in subsection 6.03.

SECTION 8: Final Plat

(See Tex. Loc. Gov't Code Ann. Sec. 232.001 (Vernon 1987) for provisions for this section)

8.01 General

After the Preliminary Plat has been approved by the Commissioners' Court, a Final Plat for recording must be prepared and seven (7) paper copies must be submitted to the Lynn County Commissioners' Court, at least thirty (30) days prior to the Commissioners' Court meeting at which Court approval is requested. The Final Plat must show the information required in Sections 8.02 through 8.10

8.02 Development of Property in Stages

If the subdivision is to be developed in stages, a Final Plat for each stage must be submitted to the Commissioners' Court for approval.

8.03 Location and Accuracy

The Final Plat must show the location of proposed and existing lots, streets, roads, public highways, water and sewer infrastructure, utility easements, and other easements, parks and other pertinent features with accurate dimensions in feet and decimals of feet and bearing, with length, radii and angle of all curves and with all other information necessary to duplicate the Final Plat on the ground. Plan and geometric design standards of streets, drawings and drainage calculations prepared by an Engineer registered in the State of Texas must be submitted separately.

8.04 Building and Set-Back Lines

The location of building and set-back lines required by Section 13.02 adjacent to all streets, drainage easements and other public rights-of-way must be shown on the Final Plat.

8.05 Water and Sewer Facilities

The final plat shall not be approved unless the subdivider has successfully accomplished demonstrating by plat documents, reports and permits, the adequate water and sewerage facilities required to serve the subdivision. The final engineering report shall also contain the certification of adequate water availability, and be signed and dated by a licensed professional engineer.

A detailed cost estimate for each significant element needed to provide water and wastewater facilities be provided with the final plat for approval. If the estimate is to be included with Final Engineering Report, the entire report shall be attached to the final plat for approval.

A proposed construction schedule for those unconstructed water and wastewater facilities necessary to serve each lot be provided with the final plat for approval. If the estimate is to be included with Final Engineering Report, the entire report shall be attached to the final plat for approval.

The easements and asset transfer documents for water and sewerage facilities shall be dedicated to the appropriate retail public utility responsible for operation and maintenance of the facilities.

The subdivider has obtained all necessary permits for the proposed water facilities and sewerage facilities (other than 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 these rules.

- a. 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 Section 9 of this title.

8.06

Dedication Deeds

The owner must provide the Commissioners' Court with deeds of dedication of all streets, public highways, alleys and utility easements dedicated to the public use. The dedication deed(s) shall be executed by all persons, firms or corporations owning an interest in the property subdivided and platted, and shall be acknowledged in the manner prescribed by the laws of the State of Texas for conveyances of real property. Two (2) true copies shall be furnished with the original.

The spouses of any married party executing such dedication deed shall join with their spouses therein unless satisfactory proof be provided showing that the property to be subdivided is the sole and separate property of the spouse signing such deed and that such property does not constitute any portion of such party's homestead, in which case the instrument of dedication shall state in fact that the property subdivided and platted does not constitute a part of such party's homestead and positively designates and identifies such party's actual homestead.

Lienholders shall execute a subordination agreement subordinating their liens, or enter into the dedication, if any, to all public streets, alleys, parks, public easements, school sites and any other public areas shown on the plat of such subdivision as being set aside for public uses and purposes.

The dedication deed shall, in addition to the above requirements, contain the following:

- a. An accurate description of the tract of land subdivided.
- b. A statement and express representation that the parties joining in such dedication deed are the sole owners of such tract of land.
- c. An express dedication, if any, to the public for public use forever of the streets, alleys, rights-of-ways, stormwater impoundment areas, parks, public easements, school sites and other public places shown on the attached plat.
- d. A positive reference and identification of the plat of such subdivision by the name of such subdivision, date of plat and surveyor and date of approval by the appropriate units of government.

8.07 Certificate of Ownership

The owner must provide the Commissioners' Court with certification of ownership which shall consist of a statement prepared by a qualified attorney or title insurance company licensed to do business in Texas which states that the title to the property has been examined and names all Owners and Lienholders of said tract of land.

8.08 Tax Certificate

Certification must be provided showing that all taxes have been paid on the tract to be subdivided, and that no delinquent taxes are owed against the property. No letter or statement that taxes are paid in full shall be acceptable from other than the Lynn County Appraisal District or appropriate Lynn County (and City/School) tax jurisdictions.

8.09 Certification by a Registered Public Surveyor

Certification must be provided by a Registered Public Surveyor that the Plat correctly represents a survey made by that surveyor, and that all of the lot corners and boundary markers are correctly placed as shown thereon, including dimensions, bearings and other technical information needed for platting each lot on the subdivision. The surveyor's certificate should read as follows:

KNOWN ALL MEN BY THESE PRESENTS

That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments indicated thereon were properly placed under my personal supervision.

Surveyor

8.10 Certification and Approval by Municipality

Certification and approval must be provided by appropriate representatives of any municipality having extraterritorial jurisdiction over the area in which the subdivision is located.

8.11 Deed Restrictions and Covenant

A copy of the deed restrictions and restrictive covenants imposed with the subdivision shall accompany the Final Plat.

8.12 Acceptance of Road for Maintenance

Approval of a Final Plat does not mean the Commissioners' Court has accepted a road or roads and will maintain such road or roads. The standards in Section 9 10 herein must be completed before the Commissioners' Court may accept a road for maintenance. (See Langford v. Kraft, 498 S.W. 2d 42, 49 (Tex. Civ. App., Beaumont, 1973, Ref. N.R.E.))

8.13

Approval by County Judge

A space must be provided on the Final Plat for the approval of the Plat by the County Judge acting on behalf of and for the Commissioners' Court. The certificate of approval should read as follows:

Approved this _____ day of _____, _____ by the Commissioners' Court of Lynn County, Texas.

LYNN COUNTY

BY: _____
Lynn County Judge

ATTEST:

County Clerk

8.14

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 Section 10 of this title, 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 Section 13 of this title.

SECTION 9: Financial Guarantees for Improvement

9.01 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 subdivides 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.

9.02 Bonds

A bond that is submitted in compliance with subsection (a) of this section shall meet the following requirements.

- a. 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. 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.

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:

1. registration with the Secretary of State and be authorized to do business in Texas;
2. authorization to issue bonds in the amount required by the Commissioners' Court; and
3. 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.

- b. The bond shall be conditioned upon construction or installation of water and wastewater facilities meeting the criteria established by Section 13 of this title 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.

9.03 Letter of Credit

A letter of credit that is submitted in compliance with subsection (a) of this section shall meet the following requirements.

- a. 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.

1. 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.

2. 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.

b. 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.

c. 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.

1. 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.

2. 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.

d. 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.

- e. 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 at the end of this section.
- f. The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Section 13 of this title 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.

9.04 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.

9.05 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.

SAMPLE FORM - SUBDIVISION CONSTRUCTION AGREEMENT SAMPLE FORM

PARTIES: This Subdivision Construction Agreement (the Agreement) is by and between the County and the Subdivider/Developer. The County is Lynn County, Texas, acting by and through its Commissioners Court, or authorized representative as designated by the Commissioners Court. The Subdivider/Developer 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.

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: Subdivider/Developer 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

Subdivider/Developer 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

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

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

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/DEVELOPER'S/DEVELOPER'S OBLIGATIONS

IMPROVEMENTS: The Subdivider/Developer agrees to construct and install, at Subdivider/Developer'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.

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/Developer 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/Developer 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.

WARRANTY: The Subdivider/Developer warrants the Improvements constructed by Subdivider/Developer or Subdivider/Developer'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/Developer does not warrant the Improvements for defects caused by events outside the control of the Subdivider/Developer or the Subdivider/Developer's agents, contractors, employees, tenants, or licensees. The Subdivider/Developer 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/Developer 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/Developer nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider/Developer 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.

SECURITY: To secure the performance of Subdivider/Developer's obligations under this Agreement, Subdivider/Developer 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/Developer'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."

REDUCTION OF 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/Developer or Issuer, and if neither the Subdivider/Developer 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/Developer 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

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/Developer 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.

NOTICE OF DEFECT: The County will provide timely notice to the Subdivider/Developer 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.

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/Developer 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.

RETURN OF EXCESS ESCROW FUNDS: No later than sixty (60) days after its receipt of a written request from the Subdivider/Developer 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.

COST PARTICIPATION BY COUNTY: If the County and Subdivider/Developer 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.

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/Developer's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement;
- (b) Subdivider/Developer'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/Developer'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;
- (d) or 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/Developer, 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/Developer 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/Developer'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/Developer'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/Developer 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/Developer 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.

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.

MEASURE OF DAMAGES: The measure of damages for breach of this Agreement by the Subdivider/Developer 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/Developer's liability.

REMEDIES: The remedies available to the County, the Subdivider/Developer, and Issuer under this Agreement and the laws of Texas are cumulative in nature.

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.

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.

INDEMNIFICATION: The Subdivider/Developer 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/Developer of any provision in this Agreement, or from any act or negligence of Subdivider/Developer or Subdivider/Developer's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider/Developer 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/Developer of any provision in this Agreement, or from any act of negligence of Subdivider/Developer or Subdivider/Developer's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider/Developer. The Subdivider/Developer is not an employee or agent of the County. Notwithstanding anything to the contrary contained in this agreement, the Subdivider/Developer 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.

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/Developer, 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.

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.

ASSIGNABILITY: The benefits and burdens of this Agreement are personal obligations of the Subdivider/Developer and also are binding on the heirs, successors, and assigns of the Subdivider/Developer. The Subdivider/Developer'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/Developer's assignee explicitly assumes all obligations of the Subdivider/Developer 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/Developer 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/Developer and the Issuer.

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/Developer.

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/Developer:

If to County:

Attn: _____
Printed Name: _____
Office or Position: _____
Address: _____

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.

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.

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 Lynn County, Texas, or the United States District Court for the _____ District of Texas, _____ Division. The Subdivider/Developer 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.

RELEASE UPON COMPLETION: Upon acceptance of all Improvements, the County agrees: (a) to complete, execute and deliver to the Subdivider/Developer and the Issuer a release in recordable form releasing the Subdivider/Developer and Subdivider/Developer'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.

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.

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.

AUTHORIZATION TO COMPLETE BLANKS: By signing and delivering this agreement to the appropriate official of the County, the Subdivider/Developer authorizes completion of this Agreement by filling in the Effective Date below.

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/Developer

[SIGNATURES OF THE PARTIES TO BE ACKNOWLEDGED]

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT B: SUBDIVISION IMPROVEMENTS

SUBDIVISION IMPROVEMENTS: Subdivider/Developer and County agree the following improvements are required in connection with the approval and development of the Subdivision (collectively, the Subdivision Improvements). Subdivider/Developer 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
-------------------------------	------------------------------

a)

b)

c)

SAMPLE FORM – LETTER OF CREDIT FORM

IRREVOCABLE LETTER OF CREDIT NO. _____

TO: _____, Texas

DATE: _____, 20__

We hereby authorize you to draw at sight on [NAME AND LOCATION OF BANK], for the account of [NAME OF CUSTOMER] (the Customer), up to the aggregate amount of _____ DOLLARS (\$) (the Stated Amount) available by our draft, accompanied by a certification by the county judge, any county commissioner, or the county treasurer that the following condition exists:

AA Condition of Draw exists under Subdivision Construction Agreement dated _____, 20__, by and between Subdivider and the County of Lynn (the Agreement). County is in substantial compliance with the terms of said Agreement and has calculated the amount of this draft in accordance with the terms of the Agreement.

Drafts must be drawn and presented by or on [EXPIRATION DATE] by the close of business of the Issuer of this credit and must specify the date and number of this credit. Drafts will be honored within five calendar days of presentment. We hereby engage all drawers that drafts drawn and presented in accordance with this credit shall be duly honored. Partial draws are permitted and the letter of credit shall be reduced by the amount of such partial draws as well as by any reduction letters authorized by the County. The sum of such partial draws shall on no account exceed the Stated Amount of this credit, and upon any draw or reduction letter which exhausts this credit, the original of this credit will be surrendered to us.

Except as expressly stated, this credit shall be subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce (Publication No. 500).

This credit is irrevocable prior to its expiration date unless both parties consent to revocation in writing.

Address of Issuer: _____

Signature of Issuer's Authorized Officer:

Printed Name: _____ Title: _____

SECTION 10: Acceptance of Road for Maintenance

(See Tex. Rev. Civ. Stat. Ann. Art. 6702-1 sec 2.002 (Vernon 1993) and Langford v. Kraft, 498 S.W. 2d 42, 49 (Tex. Civ. App., Beaumont, 1973, Ref. N.R.E.) for provisions of this section)

10.01 General

All conditions for approval of the Preliminary Plat and the engineering plans must be met. All requirements for approval of construction must be met. All construction must be in accordance with approved plans and construction standards set forth herein or as may be adopted by the Commissioners' Court.

10.02 Preliminary Acceptance of Construction

As each phase of the road, drainage, water and sewer infrastructure and utility construction is complete, the developer shall notify the Commissioners' Court in writing.

The Commissioners' Court shall then inspect the improvements and give written notice of any deficiencies. Should it be deemed necessary to ascertain compliance with County construction specifications the Commissioners' Court may require copies of test results performed by a certified testing laboratory.

Upon rectification of deficiencies and reinspection, the Commissioners' Court shall issue a statement of preliminary acceptance of construction and shall establish a date considered to be the date of completion of construction. The owner will be responsible for all maintenance until final acceptance of the roads by the County.

10.03 Final Acceptance of Construction

Twenty-four (24) months after the date of completion of construction, the owner shall notify the Commissioners' Court in writing. The Commissioners' Court shall inspect the improvements and notify the developer in writing of any deficiencies. Upon rectification of any deficiencies and reinspection, the Commissioners' Court shall recommend that Lynn County accept the improvements.

Upon Court action, Lynn County shall accept the improvements for maintenance purposes. Maintenance by County forces will not begin until final acceptance of construction.

During the 24 month period, the Subdivider must provide appropriate financial security in accordance with these regulations. Final security may be arranged in one of the following methods:

- a. A maintenance bond may be filed by the Subdivider payable to the County judge in the amount determined by the Commissioners' Court to be adequate to insure proper maintenance of the roads and streets in the subdivision during the 24 months before final acceptance of the roads, but not to exceed 20% (twenty percent) of the cost of construction of the roads and streets in the subdivision. The bond must be a surety provided by a surety company licensed to operate in the State of Texas and approved by the Commissioners' Court. The bond must be conditioned that the roads and streets will be maintained in accordance with the specifications adopted by the Commissioners' Court.
- b. The owner may provide funds in escrow, certificate of deposit, an irrevocable letter of credit or other financial instrument satisfactory to the Commissioners' Court in the amount determined by the Commissioners' Court to be adequate to insure proper maintenance of the roads and streets in the subdivision during the 24 months before final acceptance of the roads, but not to exceed 20% (twenty percent) of the cost of construction of the roads and streets in the subdivision. If a letter of credit is used, it must list as the sole beneficiary the

County Judge and be conditioned that the roads and streets will be maintained in accordance with the specifications adopted by the Commissioners' Court.

10.04

Records Construction Plans

After the subdivision roads, streets, water and sewer lines and drainage improvements have been completed by the owners or Subdivider, one set of record construction plans of all underground utilities, street and drainage improvements that have been constructed shall be filed with the Commissioners' Court prior to acceptance of the roads into the twenty-four month maintenance period.

SECTION 11: Cancellation of Subdivision

11.01 Application

A person owning real property in this state located outside municipalities and the extraterritorial jurisdiction of municipalities that has been subdivided into lots and blocks or into small subdivisions may apply to the Commissioners' Court for permission to cancel all or part of the subdivision, including a dedicated easement Of roadway, to reestablish the property as acreage tracts as it existed before the subdivision. (See Tex. Loc. Gov't Code Ann. Sec. 232.008 (b) (Vernon 1987))

11.02 Authorization

If, on the application it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the Commissioners' Court by order shall authorized the owner of the subdivision to file an instrument canceling the subdivision in whole or in part. (See Tex. Loc. Gov't Code Ann. Sec. 232.008(b) (Vernon 1987))

11.02 Instrument

The instrument must describe the subdivision or the part of it that is cancelled. The Court shall enter the order in its minutes. After the cancellation instrument is filed and recorded in the deed records of the County, the County tax assessor-collector shall assess the property as if it had never been subdivided. (See Tex. Loc. Gov't Code Ann. Sec. 232.008 (b) (Vernon 1987))

11.03 Notice

The Commissioners' Court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the County for at least three (3) weeks before the date on which action is taken on the application. The Court shall take action on an application at a regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice. (See Tex. Loc. Gov't Code Ann. Sec. 232.008 (c) (Vernon 1987))

11.05 Notice to Cancellation

- a. On the application for cancellation of a subdivision Of any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of 75% of the property included in the subdivision, phase or identifiable part, the Commissioners' Court by order shall authorize the cancellation in the manner and after notice and a hearing as provided by this section. However, if the owners of at least 10% of the property affected by the proposed cancellation file written objections to the cancellation with the court, the grant of an order of cancellation is at the discretion of the court. (See Tex. Loc. Gov't Code Ann. Sec 232.008(e) (Vernon 1987))
- b. To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that abuts directly on the part of the roadway or easement to be cancelled or closed; or is connected by the part of the roadway or easement to be cancelled or closed. by the most direct feasible route, to the nearest remaining public highway, county road or access road to the public highway or county road; or any non cancelled common amenity of the subdivision. (See Tex. Loc. Gov't Code Ann. Sec. 232.008(f) (Vernon 1987))
- c. A person who appears before the Commissioners' court to protest the cancellation of all or part of a subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the

person's original purchase price for property in the cancelled subdivision or part of the subdivision. The person must bring the action within one (1) year after the date of the entry of the Commissioners' Court's order granting the cancellation. (See Tex. Loc. Gov't Code Ann. Sec. 232.008(g) (Vernon 1987))

SECTION 12: Enforcement and Penalties

12.01 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.

12.02 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.

12.03 Violation of Subdivision Regulations

At the request of the Commissioners' Court, the County Attorney's Office may file an action in a court of competent jurisdiction to enjoin the violation or threatened violation of a requirement contained in these regulations, or recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement contained in these regulations. (See Tex. Loc. Gov't Code Ann. Sec. 232.005(a) (Vernon 1987))

A person commits an offense if the person knowingly or intentionally violates a requirement contained in these regulations. An offense under this subsection is a Class B misdemeanor. This subsection however does not apply to a violation for which a criminal penalty is prescribed for conflict of interest. (See Tex. Loc. Gov't Code Ann. Sec. 232.005(b) (Vernon 1987)).

12.04 Conflict of Interest Penalty

If a member of the Commissioners' Court has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the County Clerk.

A person has a substantial interest in a subdivided tract if the person is included in one of the following categories:

- a. has an equitable or legal ownership interest in the tract with fair market value of \$2,500.00 or more;
- b. acts as a developer of the tract;
- c. owns 10% or more of the voting stock or shares of or owns either 10% or more or \$5,000.00 or more of the fair market value of a business entity that has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00 or more, or acts as a developer of the tract; or receives in a calendar year funds from a business entity described above that exceed 10% of the person's gross income for the previous year.

A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under Tex. Gov't Code §573.021 et seq., to another person who, has a substantial interest in the tract.

A member of the Commissioners' Court commits an offense if the member fails to properly follow the affidavit procedure above. An offense under this subsection is a Class A misdemeanor. The finding by a court of a violation of this section does not render voidable an action of the

Commissioners' Court unless the measure would not have passed the Commissioners' Court without the vote of the member who violated this section. (See Tex. Loc. Gov't Code Ann. Sec. 232.0048 (Vernon 1987))

12.05

Use of Plat Descriptions Without Properly Filing

A person commits an offense if the person files for record or has recorded in the County Clerk's office a plat or replat of a subdivision without it being approved as provided by these regulations by the proper authorities, or if the person used the subdivision's description in a deed of conveyance, a contract for a deed, or a contract of sale or other executory contract to convey that is delivered to a purchaser unless the plat or replat of the subdivision is approved and is filed for record with the County Clerk and has the required water and sewer documents attached. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$10.00, nor more than \$500.00, by confinement in the County Jail for a term not to exceed 90 days, or by both. Each violation constitutes a separate offense and also constitutes prima facie evidence of an attempt to defraud. (See Tex. Loc. Gov't Code Ann. Sec. 12.002(c) (e) (Vernon 1984))

12.06

Court Partition

This section does not apply to a partition by a court. (See Tex. Prop. Code Ann. Sec. 12.002(f) (Vernon 1984))

SECTION 13: Design Standards and Required Improvements

13.01

General

- a. All Plats submitted for approval in Lynn County must clearly show the location of all lots, streets, roads, water and sewer systems, and all existing and proposed utility easements, drawn to scale, together with accurate dimensions in feet and decimals of feet with bearings, curve data and other information necessary to duplicate the subdivision as it will be constructed. (See Tex. Loc. Gov't Code Ann. Sec. 232.001(a) (Vernon 1987))
- b. All streets and roads must be designed and constructed in accordance with specifications adopted by and available from the Commissioners' Court. Construction shall be done under the supervision of a Registered Professional Engineer who shall file a copy of the proposed construction plans with the Commissioners' Court for approval prior to the beginning of construction. (See Tex. Loc. Gov't Code Ann. Sec. 232.003(4) (Vernon 1987))
- c. All improvements must be designed according to generally accepted engineering standards subject to the approval of the Commissioners' Court.
- d. 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 waste water utility type and design.

13.02

Building and Set-Back Lines

- a. The Commissioners' Court shall establish by an order, passed by at least a majority vote of the full membership of the Court, building and set-back lines in areas outside the corporate limits of municipalities so long as the lines do not conflict with lines adopted by a municipality in the extraterritorial jurisdiction of the municipality. (See Tex. Loc. Gov't Code Ann. Sec. 233.003(b) (Vernon 1987))
- b. Before the establishment or change of building or set-back lines, the Commissioners' Court shall hold at least one public hearing on the establishment or change. The Court shall publish notice of the time and place of the hearing in a newspaper of general circulation the County before the is" day before the date of the hearing. (See Tex. Loc. Gov't Code Ann. Sec. 233.003(a) (Vernon 1987))
- c. Building and set-back lines shall be 25 feet from the edge of the right-of-way on all public roads other than major highways and roads as designated by the Commissioners' Court. Building and set-back lines shall be 50 feet from the edge of the right-of-way of major highways and roads as designated by the Commissioners' Court. Setbacks from adjacent property lines shall be a minimum of 10 feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewage facilities or drinking water supplies. The building and set-back lines shall be shown on both the preliminary and final plats. (See Tex. Loc. Gov't Code Ann. Sec. 233.002(b) (Vernon 1987))
- d. The Commissioners' Court shall show each building or set-back line on a map filed with the County Clerk. (See Tex. Loc. Gov't Code Ann. Sec. 233.004(b) (Vernon 1987))
- e. If the County does not begin the construction of the improvement or widening of a road along which a building or set-back line has been established within four (4) years after the date the building or set-back line is established, the building or set-back line becomes void, unless the County and the affected property owners agree to extend the time period for the improvements or widening. (See Tex. Loc. Gov't Code Ann. Sec. 233.004(c) (Vernon 1987))

- f. An owner of real property that fronts along a road that has a building or set-back line is charged with notice of the building or set-back line order. (See Tex. Lac. Gov't Code Ann. Sec. 233.004(a) (Vernon 1987))

13.03

Required Improvements

(See Tex. Lac. Gov't Code Ann. Sec. 232.003(4) (5) (Vernon 1987) for provisions in this subsection except as otherwise indicated)

- a. All lot comers, street right-of-way lines and utility easement boundaries must be marked with iron pins driven into the ground and protected during street construction.
- b. Streets within the subdivision must be constructed by the developer according to the standards set out below.
1. All construction shall meet the minimum specifications which are set out by the Commissioners' Court at the time construction is to begin.
 2. The right-of-way on all streets or roads within or bordering a subdivision except as hereinafter provided must be a width of not less than sixty (60) feet and not more than one-hundred (100) feet unless the subdivision is within the extraterritorial jurisdiction of a municipality which requires a right-of-way of different width. Then, in that event, the right-of-way provided must comply with the requirements of said municipality.
 3. Section line roads, inclusive of the right-of-ways, must be a minimum of one-hundred (100) feet in width.
 4. One-half (1/2) section line roads, inclusive of right-of-ways, must be a minimum of eighty (80) feet in width.
 5. Streets which border the perimeter of the subdivision must be constructed to meet the specifications of the Commissioners' Court or an amount equal to one-half (1/2) of the estimated full width construction cost must be deposited in escrow with the Commissioners' Court. In no case will a road be paved to a minimum width of less than twenty-two (22) feet. In any event, the developer must dedicate to Lynn County a right-of-way of appropriate width for his proportionate share of any perimeter street whether he elects to construct the street or to place the funds in escrow for later construction.
 6. Streets must have a shoulder-to-shoulder width on collectors or main arteries within the right-of-way of not less than 32 feet and not more than 56 feet, and a shoulder-to-shoulder width on any other street or road of not less than 25 feet and not more than 35 feet. (See Tex. Loc. Gov't Code Ann. Sec. 232.003(1) (2) (3) (Vernon 1987))
- c. Streets of new subdivisions shall be in line with existing streets in adjoining property except where, in the opinion of the Commissioners' Court, the topography, requirements of traffic circulation or other considerations make it desirable to depart from such alignment. Where jogs in street alignment are unavoidable, the minimum off-set in street centerlines shall be 150 feet.
- d. A street may not intersect a county road at a point where the sight distance is restricted to less than seven hundred (700) feet, except by approval by the Commissioners' Court upon the basis of a traffic engineering investigation, unless provision is made (with copies of all pertinent agreements thereto) for removal of the sight restriction.
- e. Each lot in a subdivision shall abut on an existing external dedicated or recorded public right-of-way or other public thoroughfare or an internal street meeting or exceeding the requirements of these specifications. If a private street is proposed, its design must meet minimum County standards and it must be so approved by the Commissioners' Court. Detailed information relating to its perpetual maintenance, including copies of all proposed agreements with inhabitants of the subdivision, shall be filed with the Final Plat.

- f. Acute angles between streets in subdivisions at their intersections shall be avoided. In suburban subdivisions, where intersecting angles sharper than eighty (80) degrees are deemed necessary by the Commissioners' Court, the property line in the small angle of the intersection shall be rounded so as to permit the future construction of curbs having a radius of twenty-five (25) feet without decreasing the normal width of future sidewalk areas.
- g. For design of safe residential streets, the following rules should be followed wherever possible:
1. Use "T" intersections rather than four-way intersections, and intersect all streets at 90 degrees. A tangent section of fifty (50) feet at right angles to the street being entered by an intersecting street shall be designed prior to any curve radius on the entering street. If this cannot be done due to topography or other constraint, special approval for the design must be obtained from the Commissioners' Court.
 2. Minimize access roads.
 3. Eliminate continuous streets through neighborhoods, particularly those connecting two arteries by a direct route.
 4. Avoid irregular intersections such as multi-legged intersections and "Y" types, where two legs meet at acute angles.
 5. Eliminate jogs in intersection alignment and hidden intersections where visibility is limited by structures, bluffs, other natural features, or plant growth.
- h. Dead-end streets are not acceptable unless the street is terminated by a circular cul-de-sac turnaround. A dead-end street with a permanent circular cul-de-sac turnaround shall not exceed 800 feet. The streets shall terminate in a cul-de-sac with a minimum right-of-way radius of fifty (50) feet, unless topography, density, adequate circulation or other conditions necessitate a greater length or for subdivisions within a city's jurisdiction, a greater length has been approved by the appropriate officials. If it is physically possible to extend a cul-de-sac street into a undeveloped adjoining property, the cul-de-sac terminating a street at the boundary line of a subdivision shall be designed so that the boundary line forms a chord in the cul-de-sac equal in length to the width of the cul-de-sac street.
- i. When a proposed subdivision of land abuts on both sides of an existing substandard road, street or highway, said road, street or highway being substandard according to the existing current Lynn County specifications, the developer shall be required to improve the existing road with drainage to Lynn County standards or to replace it with a standard county road at no cost to the County. The developer shall also be required to dedicate the necessary rights-of-way for the particular roadway, but not less than 60 feet in width.
- j. If proposed street extensions between subdivisions or subdivision sections are approved and platted without cul-de-sac turnarounds at the boundary of the section or subdivision, the right-of-way of that street shall be a minimum of sixty (60) feet except where a curbed type street section is to be constructed, and the street design shall include provisions for a temporary turnaround as required in these regulations.
- k. Residential blocks within the extraterritorial jurisdiction fronting on local or residential collector streets shall be a minimum of two hundred (200) feet in length (centerline to centerline of adjacent streets) and not exceed twelve hundred (1200) feet in length unless such blocks are parallel to and adjacent to a thoroughfare, in which case such blocks shall not exceed fifteen hundred (1500) feet in length. The minimum residential block length shall be increased for frontage on higher classification streets. Commercial and industrial block lengths may be up to two thousand (2000) feet in length; provided that the requirements of traffic circulation and utility service are met. Block lengths may vary according to the requirements of circulation, utility service and topography.

Residential blocks outside the extraterritorial jurisdiction fronting on local or residential collector streets shall be a minimum of three hundred (300) feet from centerline to

centerline of adjacent streets, and shall not exceed two thousand (2000) feet in length unless minimum lot size is ten (10) acres or larger; in which case, block sizes larger than two thousand (2000) feet in length may be acceptable depending on requirements of circulation, topography and other factors. Blocks outside the extraterritorial jurisdiction fronting on streets of higher classification shall have a minimum length of four hundred (400) feet.

- i. Block widths in subdivisions shall be such as to allow for two tiers of lots, back to back; except where abutting a thoroughfare to which access to the lots is prohibited, or where prevented by topographical conditions or size of the property, in which case, blocks shall be single tier.
- m. If minimum lot area as determined by the local regulations for private waste disposal systems is in excess of 15,000 square feet, then the minimum lot area for subdivisions shall be determined by availability of water and wastewater as required by those regulations, where private waster systems are proposed.
- n. Alleys should be provided only in single family residential areas. Public utility easements are generally required in multiple-family, commercial and industrial areas along rear lot lines unless alleys are specifically approved. If an alley is provided and approved in a residential district, the minimum width shall be twenty (20) feet.
- o. Public utility easements should be located as required by the servicing utilities. In the absence of specific requirements by the servicing utility companies, public utility easements shall be twenty (20) feet wide.

Public utility easements shall not be placed in the same location as drainage easements unless specifically approved by the Commissioners' Court. Utility easements may parallel, but should be separate from drainage easements. Public utility easements shall not be placed as to appear to be a combined utility easement, i.e., drainage easements and roadway or access easements, unless specifically approved by the Commissioners' Court.

- p. Street name signs for streets shall be placed at all street intersections within or abutting the proposed plat and comply with County specifications. Cost for street signs shall be provided by the developer for the original sign and installation. (See Tex. Rev. Civ. Stat. Art. 6702-1 Sec. 2.011(b) (Vernon 1960))
- q. New streets in subdivisions shall follow the Lynn Emergency Communication District numbering system for unincorporated areas of Lynn County in accordance with the Commissioners' Court Resolution.
- r. Mailboxes, improvements and any other obstructions which are placed in any County right-of-ways shall be approved by the Commissioners' Court. All mailboxes and other improvements shall be movable or in clusters to allow the County to maintain shoulders of the road. All improvements and obstructions in the County right-of-ways shall be subject to removal from said right-of-ways at the County's request. (See A Guide for Erecting Mailboxes on Highways, American Association of State Highway and Transportation Officials, May 24, 1984)
- s. Subdivisions with any lot with frontage less than 125 feet shall be required to provide a form of curb and gutter required by the Commissioners' Court and which are in effect at the time construction is scheduled to begin. (See Op. Tex. Att'y Gen. No. H-1146)

Water Facilities

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 at the end of this section. 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.
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, which 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.

Wastewater Disposal

a. Organized sewerage facilities.

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.

1. 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.

b. On-site sewerage facilities.

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.

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.

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.

13.06 Greywater Systems

Organized or municipal (Enter Name of Subdivision) any proposal for sewage collection, treatment and disposal which includes grey water reuse shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by the commission.

On-site sewerage facilities.

Any proposal for on-site sewage disposal which includes provisions for grey water use shall meet the minimum criteria of 30 TAC Chapter 285.

SAMPLE FORM – AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED SUBDIVISION

(Enter Name of Subdivision)

PARTIES: This Agreement is by and between _____ (City and/or Utility) and the Subdivider and/or Developer, to wit:

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

The Subdivider/Developer is _____, who is the owner, or the authorized agent of the owner, of a tract of land in Lynn 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 Lynn County for its approval. The Subdivider/Developer 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/Developer 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/Developer will convey to the Utility all right and title to the water distribution system.

The Subdivider/Developer 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 Lynn County or by a municipality whose approval is required.

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

This Agreement is effective on _____, 20_____.

The Utility

By: _____

The Subdivider / Developer

By: _____

Printed Name: _____

Printed Name: _____

Office or Position: _____

Office or Position: _____

Date: _____

Date: _____

SAMPLE FORM – AGREEMENT REGARDING WASTEWATER SERVICE FOR THE PROPOSED
SUBDIVISION

(Enter Name of Subdivision)

PARTIES: This Agreement is by and between the City of Tahoka (City and/or Utility) and the Subdivider and/or Developer, to wit:

The Utility is the governing board or owner of a retail public utility which provides wastewater treatment is known as the City of Tahoka Water Utilities.

The Subdivider/Developer is _____, who is the owner, or the authorized agent of the owner, of a tract of land in Lynn 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/Developer has prepared a plat of the Subdivision for submission to Lynn County for its approval. The Subdivider/Developer 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/Developer 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.

The Subdivider/Developer 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 Lynn County or by a municipality whose approval is required.

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

This Agreement is effective on _____, 20____.

The Utility

By: _____

The Subdivider / Developer

By: _____

Printed Name: _____

Printed Name: _____

Office or Position: _____

Office or Position: _____

Date: _____

Date: _____

SECTION 14: Driveway Entrance Standards

(See Tex. Loc. Gov't Code Ann. Sec. 232.003(5) (Vernon 1987) for provisions in this section)

14.01 General

The following driveway entrance standards are required for construction of driveways on public right-of-ways in subdivisions constructed in Lynn County outside incorporated areas. These standards are also recommended for driveway construction on right-of-ways in unincorporated portions of Lynn County not within subdivisions. Approval must be obtained for driveway entrance installation where the driveway entrance standards are required. Application is made and approval is obtained through the Commissioners' Court.

14.02 Application Form

To obtain approval for driveway installation where driveway installation standards are required, the applicant must provide a signed document with the following information:

- a. date of signing;
- b. name, address and phone number of applicant;
- c. name, address and phone number of owner;
- d. number and width of driveway entrances requested;
- e. distance and direction of driveway (centerline) from lot corner;
- f. elevation of property line in relation to edge of pavement at drive location (estimated);
- g. type of driveway entrance requested (culvert or dip-type);
- h. design size of culvert from approved subdivision drainage plans. (Commissioners' Court will provide this information if not known by applicant); and
- i. approximate date of driveway installation (if known).

14.03 Additional Information and Affidavit

The document shall provide other information as necessary to describe the proposed facility and shall contain a sketch, if necessary. The bottom portion shall contain an affidavit which must be signed by the applicant and which shall indicate the applicant's agreement to construct the driveway in accordance with the standards, and where the driveway approach is to be constructed by other than County forces, to request inspection of culvert installation or ramp surface preparation at least 48 hours prior to pavement of the drive.

14.04 Approval

On satisfactory completion of the application document, the document shall be signed by the Commissioners' Court which signature shall authorize the applicant to proceed with installation, but such installation must be by separate agreement with the Commissioners' Court.

14.05 Location

No driveway shall be constructed within 150 feet of a signalized intersection or within the curb return of a street intersection or within the radius of the edge of pavement or traveled roadway at an intersection on the curve.

14.06 Width of Residence Driveways

Minimum driveway pavement width on a public right-of-way for single family residences shall be twelve (12) feet with a maximum of thirty (30) feet, and with fifteen (15) feet being the most desirable. Driveway base shall be two (2) feet wider than pavement except for dip-type drives.

14.07 Width of Multi-Family and Commercial Driveways

Multi-family residences and commercial uses shall have driveway pavement widths of twenty (20) feet minimum and forty-five (45) feet maximum, with thirty (30) feet most desirable and a twenty-four (24) foot minimum for two-way driveways.

14.08 Radii

Driveway pavement radii shall be a minimum of five (5) feet into curbed streets and a minimum of ten (10) feet into uncurbed streets and shall be a maximum of fifteen (15) feet for either curbed or uncurbed driveways.

14.09 Common Drives

Common driveways may be approved provided a duly recorded permanent access easement has been granted to each property owner to use the portion of driveway on the other lot.

14.10 Number of Driveways

On driveway access to any public road or street, a maximum of two (2) driveways will be permitted to any property with more than one hundred (100) feet of adjacent right-of-way. If roadway frontage along any public right-of-way is one hundred (100) feet or less, driveway access will be limited to one (1) access only. Where dip-type driveway installations are used, two (2) driveways per lot will be allowed regardless of lot frontage.

14.11 Driveway Grades

The maximum driveway grade [or the portion of a driveway constructed on a public right-of-way shall be ten percent (10%) measured [Tom the edge of shoulder, for residential driveways on local streets and six percent (6%) for commercial and industrial driveways. Multiple family driveways and commercial and industrial drives onto a street or road with a higher classification than a residential collector shall have a maximum grade of three percent (3%) for the first thirty (30) feet off the edge of the paved edge of the street or road.

14.12 Variations

Any variations from the above standards (i.e., a loading dock or special facility) must receive prior approval from the Commissioners' Court.

14.13 Sight Distance Problems

If sight distance problems are anticipated at the location of the proposed driveways, only one (1) driveway will be permitted at a site, to be determined by the Commissioners' Court or its representative, which provides the safest access to the public right-of-way. Where alternate access is possible, access at hazardous locations may be prohibited.

14.14 Conveyance Standards on Uncurbed Streets

Driveway installations requiring conveyance for storm drainage along roadside ditches shall be designed so as to provide adequate passage of the twenty-five (25) year local storm runoff. Additional provision shall be made for adequate overflow of storm runoff attributable to local storms in excess of the twenty-five (25) year storm design frequency without damage to the adjacent road. Where culverts are used, pavement or riprap around culvert openings may be required.

SECTION 15: Drainage Requirements

(See Tex. Loc. Gov't Code Ann. Sec. 232.003 (5) (Vernon 1987) for provisions in this section)

15.01 General

- a. All parts of subdivisions subject to flooding shall have drainage facilities adequate to prevent flooding. Drainage facilities consist of streets, alleys, storm sewers, channels, culverts, bridges, swales and any other facility through which or over which storm water flows, all of which the County must have a right in; either in the form of a dedicated right-of-way or floodway and drainage easement.
- b. Drainage structures shall be constructed in such locations and of such size and dimensions to adequately serve the subdivision under study and the contributing drainage area. In new subdivisions, the developer shall provide all of the necessary easements and rights-of-way from the owner and all adjoining owners thereto required by the Commissioners' Court for drainage structures, including storm sewer and open or lined channels.

15.02 Plan Requirements

- a. A Drainage Plan prepared by a Registered Professional Engineer of the State of Texas whose seal and signature shall appear on the Plan, must be submitted with the Preliminary Plat. The Plat shall be drawn to a scale no smaller than the Preliminary Plat scale in Subsection 7.07. The scale of supplementary plans, profiles and cross sections shall be sufficient to clearly show details.
- b. The Plan shall include an engineer's report as detailed in Subsection 15.03, and a copy of a topographical drawing at the same scale as the final drawing, showing the location, type and size of all required drainage structures. The Plan also shall indicate the route of proposed drainage.

15.03 Engineering Study

Every developer or owner who intends to file a plat with the County shall submit a Drainage Plan including a copy of an engineer's report with the Preliminary Plat showing expected drainage flow throughout the area to be subdivided, including all areas to be paved. The study shall show, as a minimum, all contributing land areas, drainage areas, coefficient of runoff, storm frequency used, calculations and the expected quantity of storm flow for each street. The study shall be based upon the method used by the Soil Conservation Service, the Rational Method or other methods approved by the Commissioners' Court.

15.04 Approval

The design, size, type and location of every storm drainage facility shall be approved by the Commissioners' Court. All drainage easements shall be clearly shown on every plat of every subdivision by width, length, location and all other dimensions. When water has been diverted through adjacent property to a subdivision, an easement shall be provided by the Subdivider to a playa lake or to a point where the water will drain through another waterway. Easement width for open or lined channels shall be at least 20 feet wider than the top of the channel, but not less than 30 feet wide.

15.05 Responsibility for Drainage

- a. The owner or developer of property to be developed shall be responsible for the conveyance of all storm and flood waters flowing through or abutting the subject property. The responsibility includes the drainage directed to that property by prior development as well as the drainage naturally flowing through property by reason of topography.

- b. Where the improvement or construction of a storm and flood water drainage facility is required along a property line common to two or more owners, the owner hereafter proposing developing or use of the property, shall be responsible for all the required improvements on either side of the common development, including the recorded dedication by the legal owner(s) of all necessary rights-of-way or easements, to accommodate the improvements.
- c. The responsibility of the owner or developer shall extend to provision of adequate off-site drainage improvements to accommodate the full effects of the development of the property. When the owner or developer certifies by affidavit that a bona fide attempt to meet off-site drainage requirements has not been successful, the County may assist, at its discretion, in the acquisition of necessary property rights to provide for construction of off-site drainage improvements. The owner or developer shall make adequate guarantees that the owner or developer will stand the full cost of acquiring said property rights and shall retain full responsibility for construction of the required off-site improvements.

15.06

Drainage Structures

- a. All traffic lane culverts shall be constructed of concrete pipe, corrugated galvanized iron, or cast-in-place reinforced concrete, or equal, and shall be designed for not less than a SOOO-pound wheel load. Culverts shall be designed for AASHTO 20-44 loading and shall be furnished and installed in accordance with the requirements of the latest edition of the "Standard Specifications for the Construction of Highways, Streets and Bridges" of the Texas Department of Transportation. Protective coatings shall be provided where specifically requested by the Commissioners' Court. No culverts built or replaced in the County shall be less than 24 inches in diameter unless a request for a smaller diameter culvert is made by the developer and owner and granted by the Commissioners' Court at the time it approves the subdivision plat. In no case shall the size of culverts to be built or replaced in the County be less than 18 inches in diameter.
- b. Unless otherwise approved by the Commissioners' Court, the design and construction of concrete boxes and bridges shall conform to applicable standards of the latest design standards of the "American Association of State Highway and Transportation Officials" and the "Standard Specifications for Construction of Highways, Streets and Bridges."
- c. Open or lined drainage ditches or both shall be constructed across the entire area of each subdivision (required to be submitted for approval) under the provisions of this policy. The design, type, size and location of every drainage ditch shall be approved by the Commissioners' Court and shall conform to the specifications for drainage ditches. Where curb and gutter is required, water in excess of what gutters will carry at maximum design flow shall be carried within the dedicated right-of-way.
- d. Design of channels shall consider velocities and shall be shaped, graded, lined or protected to minimize or prevent scour and erosion from excessive velocities. The requirement shall extend to roadside drainage ditches often called "bar" ditches. Concrete or rock retards shall be used where necessary and shall be constructed to meet Texas Department of Transportation Specifications or Lynn County specifications.
- e. Open channels shall be constructed in accordance with one of the following design methods:
 - 1. earthen channels;
 - 2. lined channels; and
 - 3. natural channels as approved by the Commissioners' Court.
- f. The Subdivider shall design every subdivision, and its facilities shall be so constructed that the following minimum storm runoff frequencies shall be met:

1. bridges -25 years;
 2. culverts under 60 inches – 10 years;
 3. curb and gutter -2 years; and
 4. storm sewer -2 years.
 5. The peak storm runoff for each return frequency for areas under 250 acres may be calculated using the Rational Method. For those areas over 250 acres, any commonly used synthetic unit hydrograph method will be utilized to determine the peak storm runoff.
- g. Residential streets shall be so designed for protection to all abutting private property for a 25-year peak storm flood frequency or worst-case flood frequency.
- h. All drainage plans or plats submitted to the Commissioners' Court shall show all drainage routing, including drainage overflow flooding for the storm frequency equal to the "100-year flood" as defined by the Federal Emergency Management Agency in the National Flood Insurance Program. Drainage plans and plats shall show the limit of the flood hazard area corresponding to the regulatory 100-year flood plain.
- i. All drainage pipe shall be of new material.
- j. Unless otherwise specified herein, all drainage ditches in subdivision areas with ground slope factors of one percent (1%) or less, shall conform to the following specifications:
1. ditches shall be of flat bottom design;
 2. ditches shall have a bottom width of eight feet;
 3. ditches shall have a depth not to exceed nine inches;
 4. ditches shall have cross slopes (Front slope and back slope) not steeper than eighteen feet to one foot (18:1);
 5. ditches shall be bluetopped and cut to a minimum of one percent (1%) cross-slope; and
 6. in subdivision areas where depths of drainage ditches must exceed nine inches, the ditches shall be designed to the engineer's specifications as set forth in the drainage report submitted by the developer.
- k. Unless otherwise approved by the Commissioners' Court, all drainage ditches shall be of a flat bottom design of sufficient dimensions to allow for the installation of dip type concrete driveways or entryways into each lot or parcel that is included or shown in the subdivision or plat thereof.

SECTION 16: Variance

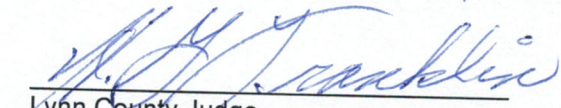
Upon a finding by the Commissioners' Court that enforcement of these regulations would be contrary to the health or safety interests of the citizens of Lynn County or that such enforcement creates a financial impossibility to the parties involved, the Commissioners' Court by an order entered into its minutes, may grant a variance to these regulations.

SECTION 17: Effective Date

The Regulations contained herein shall be in full force and effect on the date of passage as indicated below and shall supersede any subdivision regulations in force on that date.

Any valid plat on file with Lynn County or on file with any municipality in Lynn County at the time of passage of the Regulations herein, will be governed to completion by any and all regulations in force prior to the passage of the Regulations herein. Any plat filed after the date specified below must comply with the Regulations herein.

APPROVED and PASSED by the LYNN COUNTY COMMISSIONERS' COURT on this the 24 day of may, 2010.



Lynn County Judge