

MAY 13 1996

IN REGARD TO APPROVAL )  
REVISED SUBDIVISION )  
RULES AND REGULATIONS )

Motion was made by Commissioner Tamez, seconded by Commissioner McGee that authorization to adopt the Willacy County Subdivision Rules and Regulations as amended and restated in 1995 with the revised Rules and Regulations, be approved. Motion was put before the Court by the Chairman. Commissioners Tamez, McGee, Serrato and Garcia voting AYE. NAYS NONE. Motion was declared carried.

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to public safety and convenience, and to the proposed uses of land to be served by them. The Street layout shall be designed for the most advantageous development of the entire neighborhood.

- 9.2.2 Relation to adjoining Street system: Where necessary to the neighborhood pattern, existing Streets or roads (including unopened Streets or roads) in adjoining areas shall be continued and shall be at least as wide as such existing Streets and in alignment with them.
- 9.2.3 Projection of Streets: Where adjoining areas are not subdivided, the arrangement of Streets in the Subdivision shall make provision for the proper projection of Streets into un-subdivided areas.
- 9.2.4 Street jogs: Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall be avoided.
- 9.2.5 Half Streets or adjacent Streets: In the case of collector or smaller Streets, no new half Streets shall be platted.
- 9.2.6 Street intersections: Street intersections shall be as close to right angles as practicable, giving due regard to topography, site distances and safety.
- 9.2.7 Dead-end Streets: Dead-end Streets shall be prohibited except as short stubs to permit future expansion.
- 9.2.8 Cul-de-sacs: In general, cul-de-sacs in Residential Subdivisions shall not exceed six hundred (600) feet in length, and shall have a turn-around right-of-way diameter of not less than one hundred (100) feet, with a pavement diameter of not less than eighty (80) feet. In Subdivisions other than Residential Subdivisions, the turn-around right-of-way diameter shall be no less than two hundred (200) feet and pavement diameter no less than one hundred eighty (180) feet.
- 9.2.9 Block lengths: Block lengths shall not exceed one thousand three hundred (1,300) feet.
- 9.2.10 Pavement Widths and rights-of-way:
- 9.2.10.1 : Pavement Widths and rights-of-way for Subdivisions other than Residential Subdivisions shall be as follows:
- (a) Arterial Streets shall have a right-of-way width of one hundred twenty (120) feet and a Pavement Width of not more than forty-eight (48) feet, but not less than thirty-six (36) feet.

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(b) Collector Streets shall have a right-of-way width of not less than sixty (60) feet and a Pavement Width of not more than forty-eight (48) feet, but not less than thirty-six (36) feet.

(c) Minor Streets shall have a right-of-way width of not less than fifty (50) feet and a Pavement Width of not more than thirty-five (35) feet, but not less than twenty-four (24) feet.

9.2.10.2 Pavement Widths and rights-of-way for Residential Subdivisions shall be as follows:

(a) Arterial Streets shall have a right-of-way width of eighty (80) feet and a Pavement Width of not more than fifty-six (56) feet, but not less than forty-eight (48) feet.

(b) Collector Streets shall have a right-of-way width of not less than sixty (60) feet and a Pavement Width of not more than forty-eight (48) feet, but not less than thirty-six (36) feet.

(c) Minor Streets shall have a right-of-way width of not less than forty-eight (48) feet and a Pavement Width of not more than thirty-six (36) feet, but not less than twenty-five (25) feet.

9.2.11 Specifications to be followed in the construction of any such Streets within or bounding a Subdivision must consider the amount and kind of travel over the road. Streets within a Subdivision must have a base of six (6) inches of compacted caliche which is at least four (4) feet wider than the Pavement Width, and shall be paved to the Pavement Width with one and one quarter (1 1/4) inch of hot mix asphalt concrete Type "D". Street and traffic control signs shall conform to County standards and shall be installed at the expense of the Subdivider.

9.2.12 Testing Requirements. Testing by a reputable soil testing laboratory is required at different stages of Street construction as follows:

9.2.12.1 Subgrade Preparation: A minimum of one test per each 1,000 square yards or fraction thereof of Street area for subgrade compaction and depth.

9.2.12.2 Compacted Caliche: A minimum of one test per 1,000 square yards or fraction of Street area for caliche compaction and a minimum of 6" of caliche after compaction.

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- 9.2.12.3 Hot Mix Asphalt Concrete (HMAC): A minimum of one test per each 1,500 square yards of Street area for thickness to meet with State Specifications Type "D" Certification. Submittal of Certified Type "D" from Supplier.

The Developer or his Contractor shall notify the County 24 hours in advance of any test in the event that County Personnel wish to monitor any test.

- 9.2.13 Driveway culverts are required for all Subdivisions. The Subdivider shall Comply with this requirement in one of the following manners.

9.2.13.1 OMITTED

- 9.2.13.2 Installation of driveway culverts may be installed by the County at the Subdivider's expense before building permit is issued but not prior to final approval of a subdivision plat.

Driveway culvert pipes shall be of reinforced concrete construction, of no less than fifteen inches (15") in diameter and twenty four feet (24') in length, and shall otherwise conform in construction and content to the specifications promulgated from time to time by the County Commissioners Court.

- 9.2.14 Obstruction Prohibited. No wall, fence, shrubbery or other obstruction shall be permitted higher than eighteen (18) inches within the Restricted Area of a Corner Lot adjacent to an intersection with Minor Streets or Collector Streets, and there shall be no obstruction of any nature permitted within the Restricted Area of a Corner Lot adjacent to an Intersection with a State Farm to Market Road, a State Highway or a US Highway.

**WILLACY COUNTY SUBDIVISION REGULATIONS**

**As Amended and Restated, July 1995**

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## WILLACY COUNTY SUBDIVISION REGULATIONS

As Amended & Restated, July 1995

### ARTICLE 1. AUTHORITY

These Regulations are adopted under the authority of the Constitution and laws of the State of Texas, as amended. Except as expressly herein provided, these Regulations are intended to apply to all Subdivisions of real property in unincorporated areas of the County. For the purpose of these Regulations, land is considered to be within the jurisdiction of the County if the land is located in the County and outside the limits of a City.

### ARTICLE 2. PURPOSE

The purpose of these Regulations is to provide for the orderly, safe, and healthful development of the unincorporated areas of Willacy County

### ARTICLE 3. DEFINITIONS

- 3.1 **ALLEY:** A minor public right-of-way which is (a) primarily for vehicular service access to the back, or sides, of a Lot or Tract otherwise abutting on a Street, and (b) not intended to provide the primary means of access to abutting Lots or Tracts.
- 3.2 **AFFECTED COUNTY:** A county that has a per capita income that averaged 25% below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that average 25% above the state average for the most recent three consecutive years for which statistics are available; and any part of which is within 50 miles of an international border.
- 3.3 **APPROVING AGENCY:** The County, or if the Subdivision is wholly within the corporate limits or ETJ of a City, the City.
- 3.4 **APPROVED SUBDIVISION:** A Subdivision approved by the Approving Agency in accordance with Chapter 212 and/or 232, Tex. Loc. Govt. Code, as amended.
- 3.5 **BUILDING SETBACK LINE:** The line within a Lot or Tract defining the minimum permissible horizontal distance between a building and a lot line or a building and the adjacent Street or Alley right-of-way line.
- 3.6 **BOARD:** The Texas Water Development Board.
- 3.7 **CITY:** A municipality located in the County, incorporated under the Constitution and laws of Texas, having primary Subdivision approval authorization.
- 3.8 **COMMISSION:** The Texas Natural Resource Conservation Commission.



- 3.9 **CORNER LOT:** A Lot in a Subdivision located adjacent to, or abutting, two intersecting Streets, roads or highways.
- 3.10 **COUNTY:** Willacy County ; Texas. "Commissioners Court," "Commissioners" or "Court" shall mean the Commissioners Court of County.
- 3.11 **COMMON PROMOTIONAL PLAN:** any plan or scheme or operation undertaken by a single Subdivider or a group of Subdividers acting in concert, either personally or through an agent, to offer for Sale or lease lots when the land is (a) contiguous to, or part of the same area of land; or (b) known, designated, or advertised as a common unit or by a common name.
- 3.12 **COUNTY ENGINEER:** The Engineer, Surveyor or engineering firm employed or retained by County to review Plats submitted to County for compliance with these Subdivision Regulations and other related County regulations.
- 3.13 **COUNTY FLOOD PLAIN REGULATIONS:** The Regulations for Flood Plain Management adopted by County in accordance with authorizing statutes, on July 21, 1987, as amended.
- 3.14 **COUNTY WASTE WATER ORDER:** The waste water order officially adopted by the County in accordance with authorizing statutes, on \_\_\_\_\_, as amended.
- 3.15 **DISTRICT:** A conservation and reclamation or utility district created under Article XVI, Section 59, Texas Constitution.
- 3.16 **DRINKING WATER:** All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings.
- 3.17 **ENGINEER:** A Person duly licensed under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of Civil Engineering in Texas.
- 3.18 **EXTRA-TERRITORIAL JURISDICTION or ETJ:** The geographic area, outside the corporate boundaries of a City, in which a City may extend its control over Subdivisions. The limit of the City's Extra-territorial Jurisdiction is provided under Chapter 42, Tex. Loc. Govt. Code, as amended, for Residential Subdivisions, (the "Chapter 42 ETJ"), and additionally, under Chapter 212, Tex. Loc. Govt. Code for Non-Residential Subdivisions (the "Chapter 212 ETJ").

- 3.19 **FINAL PLAT:** The Plat submitted to the Approving Agency for final approval, before recording. The Final Plat is subject to the filing and recording provisions of § 12.002, Tex. Prop. Code.
- 3.20 **FLOODPLAIN:** Any area in the 100-year floodplain that is susceptible to being inundated by water from any source, and that is identified as such by the Federal Emergency Management Agency ("FEMA") under the National Flood Insurance Act of 1968 (42 U.S.C. Ch. 50, § 4001, et seq.)
- 3.21 **LOT OR TRACT:** An undivided tract or parcel of land having frontage on a Street or having other public access and which is, or in the future may be offered, for Sale, conveyance, transfer or improvement; which is designated as a distinct and separate parcel, and which is identified by a Tract or Lot number or symbol in a duly approved Plat which has been properly filed for record.
- 3.22 **MINIMUM STATE STANDARDS:** The minimum standards set out for (A) Drinking Water by or under Tex. Water Code § 16.343; (B) adequate Sewer Facilities by or under Tex. Water Code § 16.343; and/or (C) facilities for the treatment, disposal, and management of solid waste by or under Chapters 361 and 364, Tex. Health & Safety Code, as applicable.
- 3.23 **MODEL RULES:** The model rules for political subdivisions prepared by the Texas Department of Health, the Commission and the Board under Tex. Water Code § 16.343.
- 3.24 **PAVEMENT WIDTH:** The portion of a Street available for vehicular traffic. Where curbs are laid, it is the portion between the backs of curbs; where no curbs are laid, it is the portion between the edges of pavement.
- 3.25 **PERSON:** Any individual, association, partnership, business entity, firm, corporation, governmental agency, or Political Subdivision.
- 3.26 **PLANNING COMMISSION:** The board or agency of a City responsible for reviewing and approving, or recommending approval of a Plat submitted to a City for approval.
- 3.27 **PLAT:** A map, chart, survey, plan or replat, prepared by an Engineer, containing a description of the subdivided land which ties to permanent landmarks or monuments, depicting the tract of land a Subdivider intends to divide, and including accurate descriptions of each Lot or Tract within the tract of land being subdivided.
- 3.28 **PLATTED:** Recorded with the County Clerk in an official plat record.
- 3.29 **POLITICAL SUBDIVISION:** A County, City, or District.

- 3.30 **POTABLE WATER SUPPLIER:** A City, water supply corporation or utility district supplying or certified by the State of Texas to supply potable water (as defined by state statute) within the area of the County where a Subdivision is situated.
- 3.31 **PRELIMINARY PLAT:** The Plat submitted to the Approving Agency pursuant to standards of the Approving Agency and in accordance with Chapters 212 and/or 232 Tex. Loc. Govt. Code, as amended.
- 3.32 **PUBLIC WATER SYSTEM:** A system for the provision to the public of piped water for human consumption, which includes all uses described under the definition for Drinking Water. Such a system must have a potential for at least fifteen (15) individuals at least sixty (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 such primarily in connection with such system. Any collection or pretreatment storage facilities not under such control or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty-five (25) individuals but owned by the same Person and located on adjacent land will be considered a Public Water System if the total potential service connections in the combined systems are fifteen (15) or greater or if the total number of individuals served by the combined systems total twenty-five (25) or more at least sixty (60) days out of the year.
- 3.33 **PURCHASER:** Any Person acquiring a Lot or Lots, including, but not limited to, acquisition under executory contracts for conveyance of real property.
- 3.34 **RESTRICTED AREA -** That area in the form of a triangle:
- a. With sides of twenty five (25) feet each from the intersection of a Street or road with a Minor Street;
  - b. With sides of thirty (30) feet each from the intersection of a Street or road with a Collector Street; or
  - c. With sides of fifty (50) feet each from the intersection of a Street or road with an Arterial Street, a State Farm to Market Road, a State Highway or a US Highway.
- 3.35 **SANITARIAN:** A Person registered as a professional sanitarian by the Texas Department of Health under the authority of Tex. Rev. Civ. Stat. art. 4477-3, and 25 TAC §§ 337.181, et seq.
- 3.36 **SEWER, SEWER SERVICES, SEWER 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 Regulations, including "treatment works," as defined by Tex. Water Code § 17.001, or individual, on-site, or cluster treatment systems such as septic tanks, and drainage facilities and other improvements for proper functioning of septic tank systems.

- 3.37 **SELL or SALE:** To convey or offer to convey title to real property.
- 3.38 **STREET:** A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, place, or however otherwise designated.
- 3.39 **SUBDIVIDER:** Any Person who owns or controls any interest in land and who directly or indirectly divides or proposes to divide a tract of land into a Subdivision, including any division as part of a Common Promotional Plan in the ordinary course of business.
- 3.40 **SUBDIVISION:** A tract of land located without the corporate limits of any City that is directly or indirectly divided or proposed to be divided into two or more parts for the purpose of laying out a division of such tract of land or any addition without the corporate limits of any town or City, for laying out suburban Lots or building Lots and any Lots, including as part of a Common Promotional Plan in the ordinary course of business. A Subdivision does not include the division of land incident to the conveyance of the land as a gift to a family member, provided that such division is accomplished in accordance with Section 4.2 of these Regulations.

A division of a tract under this section includes a division of land that has been subdivided into Lots for Sale or lease, regardless of whether such division is made by using a metes and bounds description or any discription of less than a whole parcel in a deed of conveyance or in a contract for deed, oral contract, contract of Sale or other executory contract to convey, or by using any other method.

Subdivision includes a re-subdivision, but it does not include the division of land for agricultural purposes, provided that such division is accomplished in accordance with Section 4.3 of these Regulations.

3.40.1 **RESIDENTIAL SUBDIVISION:** A Subdivision is presumed to be a Residential Subdivision if it involves the division of a parcel of land into four (4) or more Lots that are intended primarily for residential use. A Lot is presumed to be intended for residential use if the Lot is five (5) acres or less.

3.40.2 **RURAL SUBDIVISION:** A Residential Subdivision located outside the Chapter 42 ETJ of any City, and any Subdivision located outside the Chapter 212 ETJ of any City.

- 3.40.3 **SUBURBAN SUBDIVISION:** A Subdivision located outside the corporate limits of a City and between the limits of the Chapter 42 ETJ and the Chapter 212 ETJ of that City.
- 3.40.4 **URBAN SUBDIVISION:** A Subdivision within the corporate limits of a City or within the Chapter 42 ETJ of a City.
- 3.41 **SUBDIVISION REGULATION(S) or REGULATION(S):** Any subdivision regulation(s) or ordinances adopted by the Approving Agency in accordance with Chapters 212 and/or 232, Tex. Loc. Govt. Code, as amended, including these Willacy County Subdivision Regulations.
- 3.42 **SURVEYOR:** A registered public surveyor licensed in the State of Texas.
- 3.43 **TOTAL COSTS:** The total costs that are to be incurred by a Subdivider in dividing a tract of land into a Subdivision, including but not limited to, cost of all construction, development, professional fees and expense that are required for a Subdivider to fully comply with the terms and conditions of the Subdivision Regulations.

#### **ARTICLE 4. COMPLIANCE WITH SUBDIVISION REGULATIONS**

- 4.1 No tract of land located outside the corporate limits of a City in the County shall be divided into two or more parts for the purpose of a Subdivision by any method unless the Subdivider fully complies with the requirements and conditions of these Subdivision Regulations. A Subdivider may not Sell or lease land in a Residential Subdivision first Platted or approved after 1 July 1995 unless a Plat has been approved by the County in accordance with these Regulations and Chapter 232, Tex. Loc. Govt. Code. The Plat of any proposed Subdivision shall be submitted to and approved by the Approving Agency prior to recording the Plat and prior to the Sale or contract to Sell of any Lot. Not later than the 30th day after the date a Residential Subdivision Lot is Sold, a Subdivider shall record with the County Clerk all sales contracts, including the attached disclosure statement required by Tex. Loc. Govt. Code § 232.033, leases, and any other documents that convey an interest in the subdivided land. A document filed under this section is a public record.
- 4.2 No formal Plat shall be required by these Regulations on any property conveyed by a donor to a "family member" by gift, devise or descent for any division of property that meets all of the requirements that are specified as follows:
- 4.2.1 The "family member" shall be a spouse, a brother or sister, a natural or adopted child or grandson or granddaughter of the donor.

- 4.2.2 No portion of the entire tract of land may be divided into any Tract(s) that is less than 21,780 square feet, unless all portions of the property divided are served by an approved public water supply system and connected to a municipal or other sanitary Sewer system. In the event the entire property that is divided is served by a municipal water supply system and connected to a municipal or other sanitary Sewer system, no portion of the divided property may be less than 7,000 square feet.
- 4.2.3 Each Lot created by the division of the property made by the family member shall have a minimum of fifty (50) feet fronting a Street or roadway which has been previously dedicated to the public for the public's use and benefit as a Street or roadway. Such roadway must provide the principal access to the Lot.
- 4.2.4 All Lots shall meet the requirements of section 9.4 and 9.5 of these Subdivision Regulations that pertain to accessibility and furnishing of water and Sewer utilities.
- 4.2.5 No Lot may contain more than one single family residential unit.
- 4.2.6 A survey of all Lots created by the donor in dividing the property shall be submitted to the County Planning Department at the time any permit and/or utility services are requested by the owner or occupier of the Lot, along with certified copies of all warranty deeds from the donor to all family members covering all the property divided by the donor.
- 4.3 No formal plat shall be required by these Regulations on any property conveyed or otherwise divided for agricultural purposes provided that the following criteria are satisfied:
- 4.3.1 No portion of the entire tract of land may be divided into any Tract(s) that is five (5) acres or smaller.
- 4.3.2 The intended use of the property after such division is completed shall be only uses, buildings and accessory uses related to farming and ranching activities that involve the production of raw farm and ranch products. Standard Industrial Classification (SIC) Codes included in "agricultural purposes" are SIC Codes 01 to 09, Agricultural, Forestry and Fishing; except 0723 Crop preparation services for market, and 0724, Cotton ginning. The term "agricultural purposes" includes facilities for raising animals, such as barns, kennels, or stables.
- 4.3.3 No Tract may contain more than one single family residential unit.

4.3.4 Each Tract created by the division of the property shall have a minimum of fifty (50) feet fronting a Street or roadway which has been previously dedicated to the public for the public's use and benefit as a Street or roadway. Such roadway must provide the principal access to the Tract. No new Streets, Alleys or easements of access must be necessary.

4.3.5 A survey of all Tracts created by the Person dividing the property shall be submitted to the County Planning Department at the time any permit and/or utility services are requested by the owner or occupier of the Tract, along with certified copies of all warranty deeds from the grantor to the applicant for such permit covering all the property divided.

4.4 Persons dividing property by gift to family members and Persons dividing property for agricultural purposes may obtain a certification of their exemption from the requirements of these Regulations in the manner provided under Article 8.

#### **ARTICLE 5. SUBDIVISIONS NOT PLATTED**

5.1 No permit shall be issued by the County for the installation of a septic tank on any land for which a Final Plat has not been approved and filed for record, nor upon any Lot in a Subdivision in which the standards contained herein or referred to herein have not been complied with in full.

5.2 No building permit shall be issued by the County for the construction of any structure on any land for which a Final Plat has not been approved and filed for record, or for any structure upon any Lot in a Subdivision in which the standards contained herein or referred to herein have not been complied with in full.

5.3 The County shall not repair, maintain, install or provide any Streets or services in any Subdivision for which a Final Plat has not been approved and filed for record.

5.4 A Person who subdivides real property may not use a Subdivision's name or 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 Final Plat or replat of the Subdivision has been approved and is filed for record with the County Clerk of the County.

5.5 If any Subdivision exists for which a Final Plat has not been approved or in which the standards contained or referred to herein have not been complied with in full, then the Commissioners Court may:

(1) pass a resolution reciting the fact that such noncompliance or failure to secure Final Plat approval exists, and

(2) recite the fact that the provisions of Sections 5.1, 5.2, 5.3 and 5.4 of this Article will apply to the Subdivision and the Lots therein.

(3) The County may then cause a certified copy of such resolution to be filed in the Deed Records of the County.

(4) If full compliance and Final Plat approval are secured after the filing of such a resolution, the County shall file an instrument in the Deed Records stating that paragraphs 5.1, 5.2, 5.3 and 5.4 no longer apply.

- 5.6 The provisions of Section 5 shall not be construed to prohibit the issuance of permits on any Lots in a Subdivision that was recorded prior to the effective date of these Regulations, or to prohibit the maintenance or installation of any Street or service to or abutting any Lot, so long as the Subdivision, or Lot therein, recorded or unrecorded was in existence prior to the passage of the prior subdivision regulations, adopted March 9, 1987, or so long as the Subdivision, or Lot therein, was Platted in accordance with such March 9, 1987 regulations, as amended. Notwithstanding any provision herein to the contrary, this Section does not relieve the applicant of compliance with the standards and specifications required by the County prior to the passage of the March 9, 1987, subdivision regulations, as set forth in County Waste Water Order, County Flood Plain Regulations, or and other subdivision requirements of the County.

#### ARTICLE 6. VARIANCES AND EXTENSIONS OF TIME

- 6.1 For any Subdivision other than a Residential Subdivision, variances may be authorized by the Commissioners Court when evidence shows that undue hardship will result from requiring strict compliance with these Regulations. In granting variances, the Court should prescribe only conditions that it deems necessary to or desirable for the public interest. In making their findings, the Commissioners Court should take into account:

- (1) the nature of the proposed use of the land involved,
- (2) existing uses of land in the vicinity,
- (3) the number of persons who will reside or work in the proposed Subdivisions, and
- (4) the probable effect of such variance upon traffic conditions, drainage, public health, and the safety of the existing residents and those who will come in the future.

No variance will be granted unless the Commissioners Court determines, from a written request:



- 6.1.1 That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of these Subdivision Regulations would deprive the applicant of the reasonable use of his land; and
  - 6.1.2 that the variance is necessary for the protection and enjoyment of a substantial property right of the applicant; and
  - 6.1.3 that the granting of the variance will not be detrimental to the public health or safety or injurious to other property in the area; and
  - 6.1.4 that the granting of the variance will not have the effect of preventing the orderly division of other land in the area in accordance with these Regulations.
- 6.2 Such findings of the Court, together with the special facts upon which the findings are based, shall be incorporated into the official minutes of the meeting at which the variance is granted. Variances may be granted only when in harmony with the general purpose and intent of these Regulations and when they serve to secure the public health and safety. Financial hardship to a Subdivider, standing alone, shall not constitute undue hardship.
- 6.3 For a Residential Subdivision, no variance may be granted except pursuant to this Section 6.3.
- 6.3.1 Variance from Replatting Requirements. Upon the request of a Subdivider or resident Purchaser, the Commissioners Court may grant a delay or variance from compliance with the Replatting provisions of Tex. Loc. Govt. Code § 232.040 and Section 11.2 of these Regulations, upon the following terms and conditions:
- 6.3.1.1 The Commissioners Court may grant a delay of up to two years if the reasons for the delay is to install utilities. A Person may apply for one renewal of a delay granted under this Subsection 6.3.1.1. To obtain the initial delay under this Subsection, a Subdivider must (1) identify the affected utility providers; (2) provide the terms and conditions on which service may be provided, and (3) provide a certified letter from each utility provider stating that it has the right to serve the area and it will serve the area.
  - 6.3.1.2 The Commissioners Court may grant a delay or a variance for reasons other that stated in Subsection 6.3.1.1 if it is shown that compliance would be impractical or would be contrary to the

health and safety of the residents of the Subdivision. The Commissioners Court must issue written findings stating the reasons why compliance is impractical.

6.3.1.3 A delay or variance granted by the Commissioners Court under this Subsection 6.3.1 is valid only if the Commissioners Court notifies the Attorney General of the delay or variance and the reasons therefor not later than the thirtieth (30th) day after the date the variance or delay is granted.

6.3.1.4 Until approved water and Sewer services are made available to the Subdivision, the Subdivider of land for which a delay is granted under this Subsection 6.3.1 must provide at no cost to residents: (1) 25 gallons of potable water a day for each resident and a suitable container for storing water; and (2) suitable temporary sanitary wastewater disposal facilities.

6.3.2 Other Variance. The County may grant any other variance or exception from these Regulations only if the County supplies the Subdivision with water supply and Sewer services that meet the standards of these Regulations and the Model Rules.

6.4 Extension of Time: If the Subdivider has not commenced and completed the development after one year of effective approval, the Approving Agency may, upon the written application of the Subdivider prior to the expiration of such one-year period, extend the approval for an additional six (6) months. At the end of such six (6) month extension, the preliminary approval shall be automatically revoked by the Approving Agency. Where good cause exists, the Approving Agency may extend the period of time required for completion of improvements under the methods provided in Section 10.2. Such extension of time shall be reported to the Approving Agency and recorded in its minutes. No such extension shall be granted unless bond as provided in said Section 10.2 has been provided by the Subdivider covering the extended period of time.

6.5. Extension of Time: In the case of a Residential Subdivision, the Court may extend beyond the date specified on the Final Plat, on the documents attached to the Final Plat or on the documents relating to the methods provided in Section 10.2, the date by which the water and Sewer facilities must be fully operable if the Court finds the extension is reasonable and not contrary to the public interest. The Court may not grant an extension under this Section if it would allow an occupied residence to be without water or Sewer service. If the Court provides an extension, the Court shall notify the attorney general of the extension and the reason for the extension. The Attorney general shall notify all other state agencies having enforcement power over Subdivisions in Affected Counties of the extension.

## ARTICLE 7. THE PLATTING PROCESS

- 7.1 Preliminary Conference: Prior to the official submission of a Preliminary Plat to the Approving Agency, the Subdivider or his authorized representative should consult with and present a proposed plan of the Subdivision to the planning office of the Approving Agency for comments and advice on the procedures, specifications, and standards required by the Approving Agency.
- 7.2 Preliminary Plat and Accompanying Data:
- 7.2.1 General: The Subdivider shall cause to be prepared a Preliminary Plat by a Surveyor and Engineer in accordance with these Subdivision Regulations and/or with the applicable City regulations if more stringent.
- 7.2.2 Time for filing and copies required: The Subdivider shall file twelve (12) blue or black line copies of the Preliminary Plat with the Approving Agency at least fifteen (15) days prior to the date at which formal application for the Preliminary Plat approval is made.
- 7.2.3 Filing fees: The Preliminary Plat shall be accompanied by a filing fee in a sum of twenty-five dollars (\$25.00). No action by the Approving Agency shall be taken until the filing fee has been paid. This fee is not refundable even though the Subdivider fails to make formal application for Preliminary Plat approval or the Plat be disapproved.
- 7.2.4 Subdivider shall provide County proof, satisfactory to County, of Subdivider's ownership of all portions of the property to be subdivided, including, but not limited to, all property that is to be dedicated as an easement or connected with any Plat submitted by the Subdivider.
- 7.2.5 Form and content: The Plat shall be drawn to a minimum scale of one hundred (100) feet to one inch or as determined by the Approving Agency. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire Subdivision at an appropriate scale shall be attached to the Plat. The Plat shall contain the following information:
- 7.2.5.1 Name(s) and address(es) of the Subdivider, record owner(s) of land to be subdivided, and the Engineer and Surveyor preparing the Preliminary Plat.
- 7.2.5.2 The name of the Subdivision, which shall not be spelled or pronounced similarly to the name of any other Subdivision located with the County.

- 7.2.5.3 A metes and bounds description of the Subdivision including the location of the Subdivision with respect to an original corner of the original survey or subdivision of which it is a part.
- 7.2.5.4 Primary control points, description and location and ties to such control points from which all dimensions, angles, bearings, block numbers and similar data shall be referred. Control point designations shall meet all requirements of the appropriate state statutes.
- 7.2.5.5 Subdivision boundary lines (indicated by heavy lines) and actual acreage of the Subdivision.
- 7.2.5.6 Existing conditions as follows:
- (a) The exact location, dimensions, name, and description of all existing or recorded Streets, Alleys, reservations, easements, or other public rights-of-way within the Subdivision, or contiguous with its boundaries or forming such boundaries.
  - (b) The exact location, dimension, description and flow line of existing water courses and drainage structures within the Subdivision or on contiguous tracts.
  - (c) The exact location, dimensions, description and name of all existing or recorded Lots, parks, public areas, permanent structures and other sites within or contiguous with the Subdivision.
- 7.2.5.7 The exact location, dimensions, grade, description and name of all proposed Streets, Alleys, drainage structures, and irrigation lines; the exact location of water, Sewer, electric, gas, telephone, and television cable lines; and the exact location of parks, other public area reservations, easements or other rights-of-way, blocks, Lots and other sites within the Subdivision.
- 7.2.5.8 The description of the water and Sewer facilities, electricity and gas utilities, and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to serve the Subdivision and a statement of the date by which the facilities will be fully operable, prepared by an Engineer (may be included in an attached document). A certification that the water and Sewer facilities described by the

Plat and/or document attached to the Plat are in compliance with these Regulations and/or the Model Rules must also be included. A certified estimate of the cost to install water and Sewer facilities shall also be provided.

- 7.2.5.9 The date of preparation, scale of the Plat and north arrow.
- 7.2.5.10 Topographic information, including elevations on one hundred (100) foot centers each way on the property, elevations of flow line gutters, center lines of Streets and drainage ways and contour lines at a vertical interval that will accurately show the slope and shape of the existing ground. It shall also include the Engineer's detailed statement describing the drainage patterns of the Subdivision and the adequacy of the proposed plan.
- 7.2.5.11 A certification by a Surveyor or Engineer describing any area of the Subdivision that is in a Floodplain or stating that no area is in a Floodplain.
- 7.2.5.12 A certification by the Subdivider(s) that the Subdivider, by completing the improvements described in the Preliminary Plat, will comply with the requirements of Tex. Loc. Govt. Code § 232.032 and that (a) water quality and connections to the Lots meet or will meet the Minimum State Standards; (b) Sewer connections to the Lots or septic tanks meet or will meet Minimum State Standards; (c) electrical connections provided to the Lots meet, or will meet, state standards; and (d) gas connections, if available, provided to the Lot meet, or will meet state standards.
- 7.2.5.13 A number or letter to identify each Lot or site and each block, numbered in progression, and the dimensions of each Lot or site.
- 7.2.5.14 Building Setback Lines as follows:
- (a) FRONT SETBACK: Building shall be setback a minimum of one half (1/2) of the width of the Street right-of-way which it faces.
- (b) SIDE SETBACK: Building shall be setback a minimum of six (6) feet from side property lines.

(c) REAR SETBACK: Building shall be setback a minimum of fifteen (15) feet from rear property lines.

(d) CORNER SETBACK: Building shall be setback a minimum of ten (10) feet from the side property line on Corner Lots.

- 7.2.5.15 Where applicable, location of a City's corporate limits lines and outer border of the City's Extra-territorial Jurisdiction, if they traverse the Subdivision, form part of the boundary of the Subdivision, or are contiguous to such boundary of the Subdivision. If a Subdivision lies wholly within a City's Extra-territorial Jurisdiction, a statement to that effect should be included.
- 7.2.5.16 Topographic and utility details shown on a separate Plat.
- 7.2.5.17 Restrictive covenants imposed on the land, by the Subdivider, if any, are to be shown on the Preliminary Plat, or if on a separate document, to be made a part thereof, or recorded by a separate document in the office of the County Clerk. If not shown on the Plat, a copy of such restrictions in recordable form shall be furnished to County prior to Final Plat approval.
- 7.2.5.18 A vicinity sketch or map approximately scaled which shall show existing Subdivisions, Streets, Easements, rights-of-way, parks and public facilities in the vicinity, the general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric, and sanitary sewer connections by arrows.
- 7.2.5.19 Monuments and corner markers as follows:
- (a) All block corners, angle points of curves, and all corners of boundary lines of Subdivisions shall be marked with a one inch steel rod, two (2) feet in length, with the top flush with the finished ground surface.
- (b) Where, due to topographic conditions, permanent structure or other conditions, the view is obstructed between two (2) adjacent monuments, intermediate monuments shall be so set as to assure a clear view between adjacent monuments.
- (c) Lot corner markers, consisting of a one-half (1/2) inch steel rod or three-quarters (3/4) inch pipe, two (2) feet in length,

shall be driven flush with the ground surface to mark the corners of Lots.

- 7.2.6 Subdivider shall be required to pay County an additional sum of seventy-five dollars (\$75.00) to cover all costs and expenses incurred by County in employing an Engineer or engineering firm to review the Plat or material and information submitted by Subdivider in connection with the Subdivision to ensure compliance with all applicable regulations of County, including, but not limited to, the Subdivision Regulations, as amended.
- 7.2.7 The Subdivider shall compensate County for the release of any easement(s) from the County.
- 7.2.8 An inspection fee in a sum equal to two percent (2%) of the Total Cost of the improvements including water, Sewer, drainage and Streets, shall accompany the Preliminary Plat.
- 7.2.9 Proposals for multi-family residential or commercial units shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.

### **7.3 Processing of Preliminary Plat:**

- 7.3.1 The Approving Agency shall check the Preliminary Plat as to its conformity with the general plan, major Street plan, land use plan, and the standards and specifications set forth herein or referred to herein.
- 7.3.2 The Approving Agency shall review all proposed Plats to determine if the proposed Subdivision is reasonably safe from flooding and that the grade inclinations for all Streets, alleys, and Lots are established and recorded on the Plat to assure maximum drainage within the dictates of the general topography of the platted area and the areas surrounding the Subdivision.
- 7.3.3 The Approving Agency shall also determine that all public utilities and facilities are located and planned to minimize or eliminate flood damage.
- 7.3.4 Mandatory referral: All Preliminary Plats shall be submitted by the Approving Agency for review and comment by any applicable County department, utility company, irrigation district, drainage district, postal service or municipal utilities board.
- 7.3.5 The staff of the Approving Agency shall submit for approval the Preliminary Plat and accompanying data to the appropriate Approving Agency with

recommendations as to modifications, additions, or alterations of such Plat data.

- 7.3.6 With thirty (30) days after the Preliminary Plat is formally accepted by the staff of the Approving Agency as complete, the Approving Agency shall: (a) approve or (b) disapprove the Preliminary Plat or (c) impose requirements for approval. The Approving Agency shall inform the Subdivider at the time such action is taken, unless the Subdivider is present at such meeting.
- 7.3.7 Approval of a Preliminary Plat by the Approving Agency shall be deemed as an expression of approval of the layout submitted on the Preliminary Plat as a guide to the installation of Streets, water, Sewer, and other required improvements and utilities and to the preparation of the Final Plat for recording. Approval or conditional approval of Preliminary Plat shall not constitute an automatic approval of the Final Plat.
- 7.3.8 Approval or conditional approval of a Preliminary Plat shall be effective for only one year unless reviewed by the Approving Agency in the light of new or significant information which would necessitate a revision of the Preliminary Plat. If the Approving Agency should deem changes in a Preliminary Plat as necessary, it shall so inform the Subdivider in writing.
- 7.3.9 A change in any requirement of these Regulations while a Preliminary Plat is pending approval, and at any time prior to approval of a Final Plat, must be complied with in order to obtain Final Plat approval.

#### 7.4 Processing the Final Plat

##### 7.4.1 Form and Content of Final Plat

- 7.4.1.1 All Final Plat and accompanying data, ready for recording, shall conform to the Preliminary Plat as approved or conditionally approved, incorporating any and all changes, modifications, alterations, corrections, and conditions.
- 7.4.1.2 The Final Plat shall be drawn at a minimum scale of one hundred (100) feet to one inch. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire Subdivision at an appropriate scale shall be attached to the Final Plat.
- 7.4.1.3 The Final Plat shall be submitted in an original and twelve (12) copies and shall contain all of the features required for Preliminary Plats in Subsection 7.2 herein.



7.4.1.4

In addition to the various requirements for the Preliminary Plat, the Final Plat shall contain the following information:

(a) Minimum floor elevations shall be shown on each Lot, depicting the minimum finished habitable floor elevation which shall be not less than eighteen (18) inches above the center line of the Street the Lot faces, unless otherwise noted by the Engineer of record and approved by the County in accordance with FEMA maps.

(b) A statement, signed by the Subdivider stating that (1) building and septic tank or sewer tap permits are required prior to construction of any improvements on any Lot, (2) that an adequate Drinking Water source as defined in Section 9.4 is immediately available to each Lot in the Subdivision of the type, quality and quantity to enable each Person purchasing a Lot to have adequate water to comply with the provisions of these Subdivision Regulations, the County Waste-Water Order and the laws of the State of Texas, and (3) the manner in which electric, gas and telephone utility services are or will be available to each Lot.

(c) The description required in Subsection 7.2.5.8, in English and Spanish.

7.4.1.5

The Final Plat shall also include the following certifications, as appropriate:

(a) Owners acknowledgment:

State of Texas )  
County of \_\_\_\_\_ )

I (we) the undersigned, owner(s) of the land shown on this Plat, and designated herein as the \_\_\_\_\_ Subdivision [addition to the City of \_\_\_\_\_, Texas], and whose name is subscribed hereto, hereby dedicate to the use of the Public all Streets, Alleys, parks, water courses, drains, easements, and public places thereon shown for the purposes and consideration therein expressed. I (we) hereby certify that this Plat and the documents attached hereto are complete and accurate representations of the \_\_\_\_\_ Subdivision.

\_\_\_\_\_ (Record Owner(s) & All Lien Holders)

SWORN AND SUBSCRIBED TO before me the undersigned authority on this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

State of Texas                    )  
County of \_\_\_\_\_        )

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein stated.

Given under my hand and seal of office, this the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

(b) Certification by the chairman of the planning commission (if required):

I, the undersigned, Chairman of the Planning [and Zoning] Commission of the City of \_\_\_\_\_ hereby certify that this Plat conforms to all requirements of the Subdivision Regulations or Ordinances of this City wherein my approval is required.

\_\_\_\_\_  
Chairman, Planning Commission

(c) Certification of the Surveyor responsible for surveying the Subdivision area, attesting to its accuracy:

State of Texas                    )  
County of \_\_\_\_\_        )

I, the undersigned, a (Engineer and/or Surveyor) \_\_\_\_\_ in the State of Texas, hereby certify that this Plat is true and correctly made and is prepared from an actual survey on the property made under my supervision on the ground, and further certify that proper engineering consideration has been given to this Plat.

(Engineer or Surveyor Seal)

\_\_\_\_\_  
Engineer and/or Surveyor

(d) Certification of the Mayor of the City of \_\_\_\_\_  
(if required)

I, the undersigned, Mayor of the City of \_\_\_\_\_  
hereby certify that this Plat conforms to all requirements of the  
Subdivision Regulations and/or Ordinances of this City wherein  
my approval is required.

\_\_\_\_\_  
Mayor, City of \_\_\_\_\_

(e) Certification of the County Judge of Willacy County

I, the undersigned, Judge of the County of Willacy certify that  
this Plat conforms to all requirements of the Subdivision  
Regulations of this County wherein my approval is required.

\_\_\_\_\_  
County Judge, Willacy County

(f) Approval by Water District (if required):

This Plat is approved by Willacy County Water Improvement  
District No. \_\_\_\_\_ on this \_\_\_ day of \_\_ A.D. 19 \_\_\_\_.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

7.4.2 Processing of Final Plat. A Final Plat for any Subdivision may not be filed with the County Clerk unless it has been approved by the Approving Agency by an order or resolution entered into the minutes of the Approving Agency. In addition, a Final Plat for an Urban Subdivision or a Suburban Subdivision must be approved by an order of the Commissioners Court entered into the minutes of the Court. The Court shall refuse to approve a Final Plat for recording if it does not meet the requirements prescribed in these Regulations, the Model Rules, and Chapter 232, Tex. Loc. Govt. Code, or if any bond required under Chapter 232 or these Regulations has not been filed with the County Clerk. The Final Plat may be given final approval by the Court contingent upon the payment of all fees and expenses incurred by the County and upon all requisites of the Subdivision being met, including the posting of any bond, however, the Plat shall not be recorded until all such contingencies have been met.

- 7.4.3 Final engineering report. The Final Plat shall be accompanied by an engineering report bearing the signed and dated seal of an Engineer. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual Lots within the Subdivision. A detailed cost estimate per Lot acceptable to the County shall be provided for those un-constructed water supply and distribution facilities and wastewater collection and treatment facilities which are necessary to serve the Subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under Article 10 of these Regulations, the schedule shall include the start dates and completion dates. If Sewage Facilities are to be provided through private on-site systems, the report shall include the soil information and percolation test results required by Subsection 9.5.18.
- 7.4.4 Tax Certificates. The Final Plat shall be accompanied by tax certificates from the School District, State, County, City and, if applicable, the Irrigation or Water District in which the Subdivision is located, showing that all taxes have been paid on the property being Subdivided.
- 7.5. If any part of a Plat applies to land intended for residential housing and any part of such land lies in a Floodplain, the Commissioners Court shall not approve the Final Plat unless the Plat evidences a restrictive covenant as required by this Section. The restrictive covenant shall prohibit the construction of residential housing in any area of the Subdivision that is in a Floodplain unless the housing qualifies for insurance under the National Flood Insurance Act of 1968 (42 U.S.C. Ch. 50, § 4001, et. seq.).
- 7.6 Each purchase contract made between a Subdivider and a Purchaser of land in the Subdivision shall contain a statement (in English and Spanish) describing how and when water, Sewer, electricity, and gas services will be made available to the Subdivision.

## ARTICLE 8. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS

- 8.1 On the approval of a Plat by the Commissioners Court, the Court shall issue to the Subdivider or other person applying for the approval, a certificate stating that the Plat has been reviewed and approved by the Court, and that the Subdivision described in the Plat is in compliance with these Regulations, Tex. Loc. Govt. Code Ch. 232, and the Model Rules, or stating the manner in which the Subdivision fails to be in compliance and the steps and deadlines required to bring the Subdivision into compliance.

- 8.2 On the written request of a Subdivider, an owner of land, a resident of a Lot in a Subdivision, or an entity that provides utility service, the Commissioners Court shall make the following determinations regarding the land in which the requestor is interested that is located within the jurisdiction of the County:
- 8.2.1 Whether a Plat is required for the land;
  - 8.2.2 If a Plat is required, whether it has been prepared whether it has be reviewed and approved by the Court;
  - 8.2.3 Whether water service facilities have been constructed or installed and are fully operable;
  - 8.2.4 Whether Sewer Facilities have been constructed or installed and are fully operable, or if septic systems are used, whether Lots can be adequately and legally served by septic systems; and
  - 8.2.5 Whether electrical and gas facilities, if available, have been constructed or installed to service the Subdivision.
- 8.3 The request made under Section 8.2 must identify the land that is the subject of the request, and must provide any additional information which the County deems necessary to process the request.
- 8.4 If the Commissioners Court determines under Section 8.2 that a Plat is not required, the Court shall issue to the requesting party a written certification of that determination. If the Commissioners Court determines that a Plat is required and that the Plat has been prepared and has been reviewed and approved by the Court, the Court shall issue to the requesting party a written certification of that determination.
- 8.5 The Court shall make its determination within 20 days after the date it receives the request under subsection 8.2 and shall issue the certificate, if appropriate, within 10 days after the date the determination is made.
- 8.6 After 1 July 1995, a utility may not serve or connect any subdivided land with water or Sewer services unless the utility receives a certificate from the Commissioners Court or a determination from the Commissioners Court that a Plat has been reviewed and approved by the Commissioners Court. Moreover, a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the Commissioners Court that adequate water and Sewer services have been installed to service the Subdivision.

- 8.7 The prohibition set out in Section 8.6 does not prohibit an electric or gas utility from providing service to a Lot sold, conveyed, or purchased through a contract for deed or executory contract or other device by a Subdivider prior to 1 July 1995, which is located within a Subdivision where the utility has previously established service and was subdivided by Plat approved prior to 1 September 1989.

## ARTICLE 9. STANDARDS AND SPECIFICATIONS

### 9.1 GENERAL

- 9.1.1 Except as provided in Article 6 herein, no Plat or improvements thereon shall be approved or accepted by the Approving Agency unless it conforms to the minimum standards and specifications contained herein, and in the Model Rules and Tex. Loc. Govt. Code Ch. 232, if applicable.
- 9.1.2 If a tract is Subdivided into parcels larger than ordinary building Lots, such parcels shall be arranged to allow the opening of future Streets.
- 9.1.3 There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.
- 9.1.4 Number of Dwellings Per Lot. No more than one single family detached dwelling shall be located on each Tract in a Residential Subdivision. 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. Notice of this restriction must be given by the seller to Purchasers prior to execution of any binding agreement for Sale or conveyance of any real estate.
- 9.1.5 Irrigation canals: No open irrigation canals, except main canals, shall be permitted within a Subdivision. The Subdivider shall place said canal underground if its continued use is required by the Irrigation or Water District.
- 9.1.6 Electric and gas utilities: The Subdivider shall make reasonable efforts to have electric and gas utilities installed in the Subdivision by an entity authorized under Texas law to provide such services prior to the approval of the Final Plat.

### 9.2 STREETS

- 9.2.1 Street layout: Adequate Streets shall be provided by the Subdivider with the arrangement, character, extent, width, grade, and location of each considered in its relationship to existing and planned Streets, to topographical conditions,

to public safety and convenience, and to the proposed uses of land to be served by them. The Street layout shall be designed for the most advantageous development of the entire neighborhood.

- 9.2.2 Relation to adjoining Street system: Where necessary to the neighborhood pattern, existing Streets or roads (including unopened Streets or roads) in adjoining areas shall be continued and shall be at least as wide as such existing Streets and in alignment with them.
- 9.2.3 Projection of Streets: Where adjoining areas are not subdivided, the arrangement of Streets in the Subdivision shall make provision for the proper projection of Streets into un-subdivided areas.
- 9.2.4 Street jogs: Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall be avoided.
- 9.2.5 Half Streets or adjacent Streets: In the case of collector or smaller Streets, no new half Streets shall be platted.
- 9.2.6 Street intersections: Street intersections shall be as close to right angles as practicable, giving due regard to topography, site distances and safety.
- 9.2.7 Dead-end Streets: Dead-end Streets shall be prohibited except as short stubs to permit future expansion.
- 9.2.8 Cul-de-sacs: In general, cul-de-sacs in Residential Subdivisions shall not exceed six hundred (600) feet in length, and shall have a turn-around right-of-way diameter of not less than one hundred (100) feet, with a pavement diameter of not less than eighty (80) feet. In Subdivisions other than Residential Subdivisions, the turn-around right-of-way diameter shall be no less than two hundred (200) feet and pavement diameter no less than one hundred eighty (180) feet.
- 9.2.9 Block lengths: Block lengths shall not exceed one thousand three hundred (1,300) feet.
- 9.2.10 Pavement Widths and rights-of-way:
- 9.2.10.1 Pavement Widths and rights-of-way for Subdivisions other than Residential Subdivisions shall be as follows:
- (a) Arterial Streets shall have a right-of-way width of one hundred twenty (120) feet and a Pavement Width of not more than fifty-six (56) feet, but not less than forty-eight (48) feet.

(b) Collector Streets shall have a right-of-way width of not less than sixty (60) feet and a Pavement Width of not more than forty-eight (48) feet, but not less than thirty-six (36) feet.

(c) Minor Streets shall have a right-of-way width of not less than fifty (50) feet and a Pavement Width of not more than thirty-five (35) feet, but not less than twenty-four (24) feet.

9.2.10.2 Pavement Widths and rights-of-way for Residential Subdivisions shall be as follows:

(a) Arterial Streets shall have a right-of-way width of one hundred (100) feet and a Pavement Width of not more than fifty-six (56) feet, but not less than forty-eight (48) feet.

(b) Collector Streets shall have a right-of-way width of not less than sixty (60) feet and a Pavement Width of not more than forty-eight (48) feet, but not less than thirty-six (36) feet.

(c) Minor Streets shall have a right-of-way width of not less than fifty (50) feet and a Pavement Width of not more than thirty-five (35) feet, but not less than twenty-five (25) feet.

9.2.11 Specifications to be followed in the construction of any such Streets within or bounding a Subdivision must consider the amount and kind of travel over the road. Streets within a Subdivision must have a base of six (6) inches of compacted caliche which is at least four (4) feet wider than the Pavement Width, and shall be paved to the Pavement Width with one and one quarter (1 1/4) inch of hot mix asphalt concrete Type "D". Street and traffic control signs shall conform to County standards and shall be installed at the expense of the Subdivider.

9.2.12 Testing Requirements. Testing by a reputable soil testing laboratory is required at different stages of Street construction as follows:

9.2.12.1 Subgrade Preparation: A minimum of one test per each 1,000 square yards or fraction thereof of Street area for subgrade compaction and depth.

9.2.12.2 Compacted Caliche: A minimum of one test per 1,000 square yards or fraction of Street area for caliche compaction and depth.



- 9.2.12.3 Hot Mix Asphalt Concrete (HMAC): A minimum of one test per each 1,500 square yards of Street area for thickness to meet with State Specification Type "D" Certification. Submittal of Certified Type "D" from Supplier.

The Developer or his Contractor shall notify the County 24 hours in advance of any test in the event that County personnel wish to monitor any test.

- 9.2.13 Driveway culverts or curb and gutter are required for all Subdivisions. The Subdivider shall comply with this requirement in one of the following manners:

9.2.13.1 Subdivider shall, prior to obtaining final approval of a Plat, install rollover curb and gutter eighteen inches (18") in width in connection with all Streets installed or improved in the Subdivision, pursuant to the specifications promulgated from time to time by the County Engineer. The fact that Streets are constructed with curb and gutter shall have no impact on the minimum Pavement Width set out in Section 9.2.10, or

9.2.13.2 Subdivider shall, prior to or simultaneously with obtaining final approval of a Plat, pay County a sum of money in cash determined by the County, in its sole discretion, to be sufficient to offset the cost to County for the purchase and installation of all driveway culverts required for the entire Subdivision. In the event Subdivider elects to proceed under this Section 9.2.13.2, upon receipt of the designated funds by County, County will be solely and exclusively responsible for the purchase and installation of driveway culverts for the entire Subdivision as and when each Lot in the Subdivision is developed.

Driveway culvert pipes shall be of reinforced concrete construction, of no less than fifteen inches (15") in diameter and twenty four feet (24') in length, and shall otherwise conform in construction and content to the specifications promulgated from time to time by the County Engineer.

- 9.2.14 Obstruction Prohibited. No wall, fence, shrubbery or other obstruction shall be permitted higher than eighteen (18) inches within the Restricted Area of a Corner Lot adjacent to an intersection with Minor Streets or Collector Streets, and there shall be no obstruction of any nature permitted within the Restricted Area of a Corner Lot adjacent to an intersection with a State Farm to Market Road, a State Highway or a US Highway.

### 9.3 DRAINAGE

- 9.3.1 A detailed drainage plan, prepared and executed by an Engineer, shall be submitted in addition to and along with any Final Plat. This shall contain, but not be limited to, the following:
- 9.3.1.1 A topographical map showing existing contours within the proposed Subdivision and five hundred (500) feet outside of it. It shall depict the existing elevations at one foot contours and one hundred (100) foot intervals, and spot elevations at one-tenth (1/10) of a foot, and all existing drainage facilities within each area covered by the Plat.
- 9.3.1.2 A drainage plan for the proposed Subdivision which must be illustrated on the same map depicting:
- (a) Proposed finished elevations of the center line, edge of pavement, and edge of right-of-way of each Street.
  - (b) Proposed drainage facilities to be constructed by the Subdivider, and a drawing of how those facilities tie into the County Master Drainage Plan.
  - (c) The one hundred (100) year storm contour elevation as illustrated on FEMA maps
- 9.3.1.3 A document containing the calculations of the quantity of runoff for the proposed Subdivision consistent with the overall County Master Drainage Plan, and in accord with the calculation method for determining runoff as approved by the County.
- 9.3.1.4 Provisions for drainage in the Subdivision to:
- (a) avoid concentration of storm drainage water from each Lot to adjacent Lots;
  - (b) provide positive drainage away from all buildings; and
  - (c) coordinate individual lot drainage with the general storm drainage pattern for the area,
- including a description of the drainage improvements or modifications necessary to meet these criteria.

- 9.3.2 Specifications to be followed in the design of storm drainage in accordance with standard engineering practices for all roads or Streets in the Subdivision are attached as Exhibit "B" for Urban, Suburban, and Rural Subdivisions and incorporated by reference herein and made a part hereof as though fully set forth herein.
- 9.3.3 Every Subdivision shall comply with the provisions of the County Flood Plain Regulations. The County Flood Plain Regulations are incorporated herein and made a part hereof as though fully set forth herein.
- 9.3.4 In the event all or any portion of the Subdivision is situated in a Floodplain, the Subdivider shall supply and submit to the Federal Emergency Management Agency all documents, information, reports and recommendations that are required under the rules of the Federal Flood Insurance Program, and shall be responsible for obtaining a Letter of Map Amendment or Letter of Map Revision from the Federal Emergency Management Agency, as it applies to the entire Subdivision, prior to the approval of any Plat by County.
- 9.3.5 New development and redevelopment that will result in disturbance of five or more acres of land must comply with the United States Environmental Protection Agency ("USEPA") National Pollution Discharge Elimination System ("NPDES") General Permit regulating the discharge of storm water from construction sites. Rules covering the requirements of the General Permit are published at 57 Federal Register 41176, September 9, 1992. For Purposes of these Regulations, "discharger" is defined as the owner of the property. The "operator" is defined as the general contractor on the site.

Individuals who intend to obtain coverage under the General Permit for Construction Activities must submit a Notice of Intent ("NOI") to the USEPA Region VI office in Dallas, Texas at least two (2) days prior to initiating construction. Certification of this submittal shall also be made to the County Drainage District office at least two (2) days prior to initiating construction. A copy of the NOI shall be posted at the construction site in a prominent place for public viewing.

The content of the NOI shall comply with the requirements of the NPDES Permit for Storm Water Discharges from Construction Sites, as published at 57 Federal Register 41176.

#### 9.4 WATER SUPPLY FACILITIES

- 9.4.1 It shall be the responsibility of each Subdivider to supply or arrange to supply to each Lot in a Subdivision potable water sufficient in quality and quantity to meet Minimum State Standards.
- 9.4.2 In any area of the County that potable water is supplied or eligible to be supplied by a Potable Water Supplier, each Subdivision shall contain and each Subdivider shall provide, construct and install all water lines, and all associated equipment, facilities, machinery and devices upon each Lot in the Subdivision of such size, material, depth and location as are required or specified by the Potable Water Supplier which has agreed to supply and has the ability to supply potable water to all Lots located within the Subdivision.
- 9.4.3 In areas not supplied or eligible to be supplied by a Potable Water Supplier, the Subdivider shall furnish evidence, prior to approval of the Final Plat by the Approving Agency, that adequate Drinking Water is available to the residential areas in accordance with Tex. Water Code Ch. 341, 30 TAC §§ 290.38 - 290.51, and 30 TAC §§ 290.101 - 290.120. The source of water that exists must be immediately available to each of the Lots contained in the Subdivision, and at locations and of sufficient quality and quantity to enable each Purchaser of a Lot contained in the Subdivision to comply with the provisions of the County Waste Water Order.
- 9.4.4 To insure a permanent water supply, the Subdivider shall convey to the County or to the Potable Water Supplier, all right, title, or interest in the water rights applicable to the land being subdivided.
- 9.4.5 Where Drinking Water is to be supplied to a Subdivision from a central system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC §§ 290.38 - 290.51, and 30 TAC §§ 290.101 - 290.120.
- 9.4.6 Subdividers who propose to supply Drinking Water by connecting to an existing central system must provide a written agreement with the public water purveyor. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed Subdivision for a minimum of thirty (30) years, and must otherwise certify that water is available in sufficient quality and quantity to meet the Minimum State Standards, and that such quantity and quality of water will be made available to the point of delivery to all Lots in the Subdivision.
- 9.4.7 Wells for consumption of water may be allowed only in areas that are outside the service area of an approved public water supply that holds a Certificate of Convenience or Necessity ("CCN") from the Commission. Where

individual wells are proposed for the supply of Drinking Water to residential establishments, the following conditions and requirements shall be observed:

- 9.4.7.1 A test well or wells located so as to be representative of the quality of water generally available from the supplying aquifer shall be drilled by the Subdivider and the produced water sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are Drinking Water standards. The results of such analysis shall be made available to prospective property owners.
- 9.4.7.2 The water quality of individual wells must, after treatment, meet the standards of quality for community water systems established by 30 TAC §§ 290.3, 290.4, 290.10, and 290.13.
- 9.4.8 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, or in accordance with a variance allowed under Section 6.3. Absence of a water system meeting the standards of these rules due to the negligence of the Subdivider does not constitute an emergency.
- 9.4.9 Non-public Water Systems. Where individual wells are proposed for the supply of Drinking Water to residence establishments, the Subdivider shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 9.4.7.2 of these Regulations in the materials submitted with the Preliminary Plat. The results of such analysis shall be made available to the prospective property owners. The Engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed Subdivision over the next thirty (30) years. Such statement may be based on information available from the Board's Groundwater Unit of the Water Data Collection and Planning Division. The description of the needed sanitary control easement shall be included.
- 9.4.10 Where water supplies are to be provided by an existing Political Subdivision of the state, including a City, municipal utility district, water supply corporation, or an existing investor-owned water supply corporation, the Subdivider shall furnish an executed contractual agreement between the Subdivider and the governing board of the entity or owner of the utility to the effect that necessary arrangements have been made by the Subdivider and the entity for the provision of a sufficient water supply to serve the ultimate needs of the Subdivision for a term of not less than thirty (30) years. Before Final Plat approval, plans and specifications for the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed

project. Entities having jurisdiction, in this instance, may include the Political Subdivision in addition to the Texas Department of Health and the County Health Department. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include comments regarding the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the Subdivision.

## 9.5 SEWER FACILITIES

- 9.5.1 All Subdividers shall, at a minimum, comply with the provisions of the County Waste Water Order, Tex. Health & Safety Code Ch. 366, and any regulations promulgated thereunder, including, but not limited to 30 TAC Ch. 285.
- 9.5.2 Subdivisions served by a City Water and Sewer system shall provide for individual Lots having surface areas not less than the minimum Lot size required by the City serving the Subdivision.
- 9.5.3 Subdivisions served by a Potable Water Supplier but utilizing individual subsurface absorptive-type methods for sewage disposal ("Septic Tanks") shall provide for individual Lots having a surface area which is the greater of one-half acre (21,780 (net) square feet), or the area standards adopted by the Commission.
- 9.5.4 Subdivisions not serviced by a Potable Water Supplier that utilize water supply wells and subsurface absorptive-type methods for sewage disposal, shall show on the Final Plat:
- 9.5.4.1 The approved well location and a one hundred fifty (150) foot radius sanitary zone around the well within which no absorptive type disposal system may be constructed.
- 9.5.4.2 Each Lot in such a platted or unplatted Subdivision shall contain an area not less than the greater of one acre (43,560 square feet) or the area required by standards adopted by the Commission.
- 9.5.6 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.

- 9.5.7 Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement with the permittee. The agreement must accommodate the total flow anticipated from the ultimate development and occupancy of the proposed Subdivision for a minimum of thirty (30) years. Engineering plans for the proposed wastewater collection lines must be approved by the Commission prior to construction.
- 9.5.8 On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of one thousand (1,000) gallons per day must be designed by an Engineer or Sanitarian.
- 9.5.9 Proposals for on-site sewerage facilities for the on-site disposal of sewage in the amount of five thousand (5,000) gallons per day or greater must be presented to the Commission for determination of the necessity for a wastewater permit from that agency. Each such disposal facility must be designed by an Engineer.
- 9.5.10 On-site Sewer Facilities not required to obtain a wastewater permit from the Commission must apply for and receive a permit from the County Health Department as the Commission's authorized agent as required by the procedures established in 30 TAC Ch. 285.
- 9.5.11 On-site Sewage Disposal Near Lakes. On-site Sewer Facilities proposed near lakes must be licensed and installed in strict accordance with requirements established by the Commission in their rules 30 TAC Ch. 284.
- 9.5.12 On-site Wastewater Disposal in Recharge Zones. On-site Sewer Facilities proposed within aquifer recharge zones must be licensed and installed in strict accordance with requirements established by the Commission in 30 TAC Chapter 313 and applicable Texas Department of Health regulations.
- 9.5.13 Review, Inspection and Permitting of On-site Sewer Facilities. The Commission or the County Health Department as 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 Tex. Health & Safety Code Ch. 366, and 30 TAC Ch. 285, and any additional applicable regulations. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC § 285.16, pit privies and portable toilets, as defined in 30 TAC §§ 285.11(31) & (33) are not acceptable waste disposal systems for Lots Platted under these Regulations.
- 9.5.14 Organized and Municipal Sewer Systems. Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum

criteria of 30 TAC Ch. 310, promulgated and administered by the Commission.

On-site Sewer Facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC § 285.17.

- 9.5.15 Sludge Disposal. The disposal of sludge from water treatment and wastewater treatment facilities shall meet the criteria of 30 TAC Chs. 312 & 317.
- 9.5.16 Where wastewater treatment capacity is to be provided by a Political Subdivision of the state, including a City, municipal utility district, water control and improvement district or nonprofit water supply corporation, or an existing investor-owned water supply corporation, the Subdivider shall furnish evidence of a contractual agreement between the Subdivider and the governing board of the entity or owner of the utility to the effect that necessary arrangements have been made by the Subdivider and the entity for the provision of sufficient wastewater treatment capacity to serve the ultimate full built-out needs of the Subdivision for a term of not less than thirty (30) years. 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.
- 9.5.17 Where there is no existing entity or owner to construct and maintain the proposed wastewater treatment and collection facilities, the Subdivider shall establish an investor-owned utility by obtaining a CCN from the Commission. Before Final Plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate built-out population of the Subdivision 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.
- 9.5.18 Where Septic Tanks are the only means of sewage disposal, percolation tests, spaced at intervals of four hundred (400) feet or less throughout the Subdivision, shall be conducted by an Engineer. A written report of soil conditions and minimum drain fields shall be furnished prior to approval of a Final Plat. Percolation tests conducted by authorized County or State health and/or water quality agencies along with their recommendations may be furnished in lieu of tests by an Engineer.
- 9.5.19 After 1 July 1995, a Subdivider may meet the requirements of Section 7.2.5.12(b) by reliance on a certificate issued by the County Health



Department stating that Lots in the Subdivision can be adequately and legally served by septic systems. In order for such certificate to be issued, a Preliminary Plat and results of Percolation Tests soil sampling under Subsection 9.5.18 must be provided to the County Health Department. The certificate may be conditioned on the Final Plat being completed in a form substantially similar to the Preliminary Plat and in substantial compliance with the requirements for Septic Tanks set out in this Section 9.5.

## 9.6 SOLID WASTE DISPOSAL

9.6.1 All County regulations heretofore or hereafter adopted pursuant to the authority of the County under Tex. Health & Safety Code Ch. 364 are incorporated herein by reference, and hereby made applicable to Subdividers and Purchasers of Lots in Subdivisions.

## ARTICLE 10. GUARANTEE OF PERFORMANCE

10.1 Construction of improvements prior to Final Plat recordation: If the Subdivider chooses to construct the required improvements prior to the recording of the Final Plat, all such construction shall be inspected while in progress by the Approving Agency and must be approved upon completion by the Approving Agency. A certificate by an official of the Approving Agency stating that the construction conforms to the specifications and standards contained in or referred to herein must be presented to the Approving Agency prior to approval of the Final Plat for recordation.

10.2 Bond in Lieu of construction: If the Subdivider chooses to file Bond in lieu of completing construction prior to the Final Plat approval for recordation, the Subdivider may utilize one of the following methods of posting bond. If the Subdivider chooses to file a bond, the Final Plat shall not be approved for recordation unless the Subdivider has obtained and maintains, until release under Section 10.3, one of the following:

10.2.1 **Unconditional Guarantee:** The Subdivider has filed with the Approving Agency an irrevocable letter of credit in the form approved by the Approving Agency, signed by the principal officer of a federally insured local bank or local savings and loan association or other financial institution acceptable to the Approving Agency, agreeing to pay the Approving Agency on demand, a stipulated sum of money to apply to the estimated cost of installation of all improvements for which the Subdivider is responsible under these Subdivision Regulations. The guaranteed payment sum shall be estimated costs and scheduling as approved by the Approving Agency. The letter shall also state the name of the Subdivision and shall list the improvements which the Subdivider is required to construct in the Subdivision.

**10.2.2 Trust Agreement:** The Subdivider has placed on deposit in a bank or trust company in the name of the Approving Agency and approved by the Approving Agency, in a trust account, a sum of money equal to the estimated cost of installation of all improvements for which the Subdivider is responsible under these Subdivision Regulations. The Subdivider may select the trustee from federally insured local banks or local savings and loan associations or other financial institutions as approved by the Approving Agency. The Subdivider and the Trustee shall execute a trust agreement in a form approved by the Approving Agency, which provides the list of improvements for which the Subdivider is required to construct in the Subdivision, the estimated cost of installation, the time of completion as approved by the Approving Agency and such other information that may be requested by the Approving Agency. Upon approval by the Approving Agency and after inspection of the work, periodic withdrawals may be made from the trust account for progressive payment of installation costs. The amount of such withdrawals shall be based upon progress work estimates that are approved by the Approving Agency. The trustee shall pay all amounts approved by the Approving Agency.

**10.2.3 Performance Bond:** The Subdivider has filed with the Approving Agency a bond executed by a surety company holding a license to do business in the State of Texas that is acceptable to the Approving Agency, in the form approved by the Approving Agency, in an amount equal to a sum of money equal to the estimated cost of installation of all improvements for which the Subdivider is responsible under these Subdivision Regulations, and setting out the time of completion of such improvements as are approved by the Approving Agency.

Any Bond, Trust or Guaranty must be conditioned on construction or installation of water and Sewer facilities that will be in compliance with these Regulations and the Model Rules.

**10.3 Acceptance or rejection of construction:** If one of the above three (3) types of security is filed by the Subdivider under Section 10.2, the Approving Agency shall inspect the construction of the improvements while in progress and shall inspect each improvement upon completion of construction. After final inspection, the Approving Agency shall notify the Subdivider in writing as to its acceptance or rejection of the construction. The Approving Agency shall reject such construction only if it fails to comply with the standards and specifications contained in these Subdivision Regulations and in the Final Plat and accompanying documents. If the Approving Agency rejects such construction, it shall proceed to enforce the guarantees provided in these Subdivision Regulations. Upon final notification of acceptance of the construction of all required improvements by the Approving Agency, the bond provided under Section 10.2 shall be released by the Approving Agency.

**ARTICLE 11. CANCELLATION OF SUBDIVISIONS, REVISION OF PLATS AND REPLATTING**

**11.1 Cancellation of Subdivision.** A Subdivider of a Residential Subdivision may apply to the Approving Agency to cancel all or part of the Subdivision in the manner provided in Tex. Loc. Govt. Code § 232.008 after notice and hearing as required by Tex. Loc. Govt. Code § 232.039.

**11.2 Replatting.**

**11.2.1** A Plat of a Residential Subdivision must accurately reflect the Subdivision as it develops. If there is any change, either by the intentional act of the Subdivider or by the forces of nature, including changes in the size or dimension of Lots or the direction or condition of roads or Streets, a Plat must be revised in accordance with Section 11.3 and Tex. Loc. Govt. Code § 232.041.

**11.2.2** Except as provided by Subsection 11.2.3, a lot in a Subdivision may not be Sold if the lot lacks water and Sewer services as required by Article 9 and Tex. Loc. Govt. Code Ch. 232 unless the Lot is Platted or replatted as required by these Regulations and Tex. Loc. Govt. Code Ch. 232. A Subdivider or agent of a Subdivider may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of these Regulations and Tex. Loc. Govt. Code Ch. 232. This prohibition includes the Sale of a Lot:

**11.2.2.1** by a Subdivider who regains possession of a Lot previously exempt under Subsection 11.2.3 through the exercise of a remedy described in Tex. Prop. Code § 5.061; or

**11.2.2.2** for which it is shown at a proceeding brought in the district courts of the County that the sale of a Lot otherwise exempt under Subsection 11.2.3 was made for the purpose of evading the requirements of these Regulations and Tex. Loc. Govt. Code Ch. 232.

**11.2.3** Subsection 11.2.2 does not apply if a Seller other than a Subdivider or agent of a Subdivider:

**11.2.3.1** resides on the lot; or

**11.2.3.2** purchases the lot through a contract for deed.

11.2.4 The attorney general or district attorney or county attorney with jurisdiction may bring a proceeding under Subsection 11.2.2.

11.2.5 Existing utility services to a Subdivision that must be platted or replatted under this Section may not be terminated under Sections 8.6 & 8.7 or Tex. Loc. Govt. Code § 232.029.

### 11.3 Revision of Plats.

11.3.1 A Person who has subdivided land that is subject to these Regulations may apply in writing to the Commissioners Court for permission to revise the recorded Final Plat of the Subdivision.

11.3.2 After the application is filed, the Court shall give notice of the application and the date on which it will consider such application in accordance with Tex. Loc. Govt. Code § 232.041(b).

11.3.3 The Court shall adopt an order to permit the revision of the Plat if it is shown that:

11.3.3.1 the revision will not interfere with the established rights of any owner of another part of the Subdivision; or

11.3.3.2 each owner whose rights may be interfered with has agreed to the revision.

11.3.4 If the Court permits a Person to revise a Plat, the person may make the approved revision by filing for record a revised Plat or part of a Plat that indicates the changes made to the original Plat.

## ARTICLE 12. DUTY OF THE COUNTY CLERK

12.1 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 determine whether the Plat of replat is required by law to be approved by a 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 law by the appropriate authority and unless the Plat or replat has attached to it the documents required by Tex. Loc. Govt. Code §§ 212.0105 or 232.023(b)(6) & (7) and Section 7.2.5.8 of these Subdivision Regulations.

If a Plat or replat does not indicate whether land covered by the Plat or replat is in the Extra-territorial Jurisdiction of a City, the County Clerk may require the Person filing the Plat or replat for recording to file with the Clerk an affidavit stating that information.

- 12.2 A Person may not file for record or have recorded in the County Clerk's office a Plat or replat of a Subdivision of real property unless it is approved as provided by law by the appropriate authority and unless the Plat or replat has attached to it the documents required by Tex. Loc. Govt. Code §§ 212.0105 or 232.023(b)(6) & (7) and Section 7.2.5.8 of these Subdivision Regulations.
- 12.3 A Person commits an offense if the Person violates Section 12.2. An offense under this Section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$500, by confinement in the County jail or a term not to exceed 90 days, or by both fine and confinement. Each violation constitutes a separate offense.

### ARTICLE 13. PENAL PROVISIONS

#### 13.1 Civil Penalties.

- 13.1.1 A Subdivider or an agent of a Subdivider may not cause, suffer, allow or permit a Lot to be Sold in a Subdivision if the Subdivision has not been platted as required by these Regulations and Tex. Loc. Govt. Code Ch. 232.
- 13.1.2 Notwithstanding any other remedy at law or equity, a Subdivider or an agent of a Subdivider may not cause, suffer, allow or permit any part of a Subdivision in this County over which the Subdivider or an agent of the Subdivider has control, or a right of ingress and egress, to become a health nuisance as defined by Tex. Health & Safety Code § 341.011.
- 13.1.3 A Subdivider who fails to provide, in the time and manner described in the Plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the Plat or who otherwise violates these Regulations or Tex. Loc. Govt. Code Ch. 232, is subject to a civil penalty of not less than \$500 nor more than \$1,000 for each violation and for each day of a continuing violation but not to exceed \$5,000 each day and shall also pay court costs, investigative costs, and attorneys' fees for the governmental entity bringing suit.
- 13.1.4 Except as provided by Subsection 13.1.5, a person who violates Subsections 13.1.1 or 13.1.2 is subject to a civil penalty of not less than \$10,000 or more than \$15,000 for each lot conveyed or each Subdivision that becomes a nuisance. The Person must also pay court costs, investigative costs, and attorneys' fees for the governmental entity bringing suit.
- 13.1.5 A Person who violates Subsection 13.1.2 is not subject to a fine under Subsection 13.1.4 if the Person corrects the nuisance not later than the thirtieth (30th) day after the date the person receives notice from the attorney general or a local health authority of the nuisance.

13.1.6 Venue for an action under this Section 13.1 is in a district court of Travis County, a district court in a county in which the defendant resides, or a district court in Willacy County.

## 13.2 Criminal Penalties.

13.2.1 A Subdivider commits an offense if the Subdivider knowingly fails to file a Plat required by these Regulations and Tex. Loc. Govt. Code Ch. 232. An offense under this subsection is a Class A misdemeanor.

13.2.2 A Subdivider who owns a Subdivision commits an offense if the Subdivider knowingly fails to timely provide for the construction or installation of water or Sewer service as required by Article 9 and Tex. Loc. Govt. Code § 232.032 or fails to make a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Article 9 and Tex. Loc. Govt. Code § 232.032. An offense under this subsection is a Class A misdemeanor.

13.2.3 If it is shown at a trial of an offense under Subsection 13.2.1 that the defendant caused five or more residences in the Subdivision to be inhabited, the offense is a state jail felony.

13.2.4 A Subdivider commits an offense if the Subdivider allows the conveyance of a Lot in the Subdivision without the appropriate water and Sewer utilities as required by Article 9 and Tex. Loc. Govt. Code § 232.032 or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Article 9 and Tex. Loc. Govt. Code § 232.032. An offense under this subsection is a Class A misdemeanor. Each lot conveyed constitutes a separate offense.

13.2.5 Venue for prosecution for a violation under this Section is in Willacy County or in Travis County.

## 13.3 Enforcement.

13.3.1 The attorney general, or the district attorney or county attorney of the County may take any action necessary in a court of competent jurisdiction on behalf of the state and County or on behalf of residents to:

13.3.1.1 enjoin the violation or threatened violation of a requirement of the Model Rules;

13.3.1.2 enjoin the violation or threatened violation of these Regulations or Tex. Loc. Govt. Code Ch. 232;

- 13.3.1.3 recover civil or criminal penalties, attorneys' fees, litigation costs, and investigative costs; and
  - 13.3.1.4 require platting or replatting under these Regulations and Tex. Loc.Govt. Code § 232.040.
- 13.3.2 The attorney general, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under Section 13.2, or Tex. Loc. Govt. Code §§ 232.033(h) or 232.036.
- 13.3.3 During the pendency of any enforcement action brought, any resident of the affected Subdivision, or the attorney general, district attorney or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of pre-existing utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that the termination poses a threat to public health, safety or welfare of the residents of the affected Subdivision.
- 13.4 Suit by Private Persons.** A person who has purchased or is purchasing a lot from a Subdivider after July 1, 1995, in a Residential Subdivision that does not have water and Sewer services as required by these Regulations and is located in an economically distressed area, as defined by Tex. Water Code § 17,921, may bring suit in the district courts of Willacy or Travis Counties to:
- 13.4.1 declare the sale of the property void and require the Subdivider to return the purchase price of the property; and
  - 13.4.2 recover from the Subdivider:
    - 13.4.2.1 the market value of any permanent improvements the person placed on the property;
    - 13.4.2.2 actual expenses incurred as a direct result of the failure to provide adequate water and Sewer facilities;
    - 13.4.2.3 court costs; and
    - 13.4.3.4 reasonable attorneys' fees.
- 13.5 Injunction.** In addition to other remedies, the attorney general, the county or district attorney of the County, other local officials are authorized to apply to the district court for and the court in its discretion may grant the state or Political Subdivision without bond or other undertaking, any injunction that the facts may warrant including temporary restraining orders, temporary injunctions after notice and

hearing, and permanent injunctions enjoining a violation of these Regulations, the Model Rules or Tex. Loc. Govt. Code Ch. 232.

#### ARTICLE 14. CONFLICTS OF INTEREST

- 14.1 If a member of the Commissioners Court of a County has an Interest (as defined below) 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.
- 14.2 A member of the Commissioners Court commits an offense if the member violates Section 14.1. An offense under this subsection is a Class "A" misdemeanor. A conviction under this Section constitutes official misconduct by the member who violates this section and is grounds for removal from office.
- 14.3 The finding by a court of a violation of Section 14.1 does not render voidable an action of the Commissioners Court unless the measure would not have passed the Commissioners Court but for the vote of the member who violated Section 14.1.
- 14.4 In this Article, "subdivided tract" means a tract of land, as a whole, that is subdivided into Tracts or Lots. The term does not mean an individual Lot in a subdivided tract of land.
- 14.5 A Person has an interest in a subdivided tract if the Person:
- 14.5.1 has an equitable or legal ownership interest in the tract;
  - 14.5.2 acts as a developer of the tract;
  - 14.5.3 owns voting stock or shares of a business entity that:
    - 14.5.3.1 has an equitable or legal ownership interest in the tract; or
    - 14.5.3.2 acts as a developer of the tract; or
  - 14.5.4 receives in a calendar year money or any thing of value from a business entity described by Section 14.5.3.
- 14.6 A Person also is considered to have an interest in a subdivided tract if the Person is related in the second degree by consanguinity or affinity, as determined under Tex. Govt. Code Ch. 573, to another Person who, under Section 14.5 above, has an interest in the tract.



**ARTICLE 15. CONFLICT WITH OTHER STATUTES OR REGULATIONS OR WITH CITY ORDINANCES**

Whenever the standards and specifications in these Regulations conflict with those contained in other regulations or City Ordinances adopted by a City and applicable to a Subdivision to which these Regulations also apply, the most stringent or restrictive provisions shall apply. In addition, it is the intention of the County in adopting these Regulations, to regulate development in unincorporated areas of the County consistent with the provisions of Chapter 232, Tex. Loc. Govt. Code and the Model Rules, as either may be amended from time to time. In the event of a conflict between the provisions of these Regulations and either the Model Rules or Chapter 232, the more stringent or restrictive provisions shall apply, the terms and conditions of the Model Rules, as amended from time to time, being hereby adopted and incorporated herein for such purpose.

**ARTICLE 16. SEVERABILITY CLAUSE**

If any word, phrase, clause, sentence, section, provision or part of these Subdivision Regulations should be held invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is hereby declared to be the intent of the Commissioners Court that these Regulations would have been adopted as to the remaining portions, regardless of the invalidity of any part.

**ARTICLE 17. EFFECTIVE DATE OF ENACTMENT**

The provisions of the Subdivision Regulations shall become effective on the \_\_\_\_\_ day of July, 1995. The Willacy County Subdivision Regulations adopted on March 9, 1987, as amended prior to the effective date of these Regulations are hereby repealed in their entirety for any Subdivision approved by the Commissioners Court on or after the effective date of these Regulations, but shall remain in force and effect as to subdivisions approved and filed of record prior to the effective date of these Regulations.