



*ADOPTION VERSION*

*HAYS COUNTY  
DEVELOPMENT REGULATIONS*

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## **CHAPTER 701 - DEVELOPMENT REGULATIONS IN GENERAL**

### ***Sub-Chapter 1 - Preamble and Purpose***

#### **§1.01. Preamble**

These Development Regulations have been adopted by Order of the Hays County Commissioners Court to provide a framework for the orderly and efficient development of rural and suburban Hays County. The various departments, agencies, entities and employees of the County are directed to implement these Regulations and are authorized to do so as outlined herein.

#### **§1.02. Purpose**

The purpose of these regulations is to implement the powers and duties of the County authorized under the Texas Water Code, the Texas Health and Safety Code, the Texas Local Government Code and other laws, to establish the policies of the Commissioners Court and to set forth procedures to be followed in County proceedings in regulating certain activities associated with development in Hays County. The regulations should be interpreted to simplify procedure, avoid delay, save expense, and facilitate the administration and enforcement of laws and regulations by the County.

#### **§1.03. Severability**

It is hereby declared to be the express intention of the Commissioners Court of Hays County, Texas, that the appendices, Chapters, clauses, paragraphs, phrases, Sections, sentences, and Subsections of these Regulations are severable. In the event any appendix, Chapter, clause, paragraph, phrase, Section, sentence or Subsection of these Regulations shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining appendices, Chapters, clauses, paragraphs, phrases Sections, or Subsections of these Regulations.

#### **§1.04. Adoption by Reference**

Where these Regulations adopt by reference the guidelines, laws, ordinances, policies, procedures, regulations, rules, and/or statutes (hereinafter “other rules”) of another entity, the implementing County departments, employees and agents shall maintain and make available to the public a copy of any current document which contains such other rules adopted by reference, in accordance with Chapter 799.

### ***Sub-Chapter 2 - Applicability***

#### **§2.01. General Requirements**

This Chapter shall govern the general administrative procedures and review and evaluation processes to be used by the County to process and approve Applications for various types of Development Authorizations and to outline public notice requirements and establish guidelines for public participation in the review and approval of Development Authorizations.

## **§2.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, 234, 242, 245 and 352 and under the Texas Water Code (TWC) in Chapters 26 and 35.

## **§2.03. Approval Required**

Except as otherwise provided herein, approval of the County is required prior to conducting any of the development activities outlined in these regulations.

## **§2.04. Development Authorizations within ETJ of a Municipality**

Whenever any portion of an Original Tract lies within the defined extraterritorial jurisdiction (ETJ) of a municipality and is subject to both the development regulations of such municipality and Hays County, the following procedures will govern:

- (A) The Applicant should obtain approval of the Application from the applicable Reviewing Authority, as determined under TLGC Chapter 242, before filing record documents with the County Clerk. As required by the Texas Property Code, the County Clerk will not accept documents for recordation unless they have been approved by the Reviewing Authority.
- (B) In accordance with the TLGC, the County is authorized to enter into inter-local agreements with municipalities within the County to identify the Reviewing Authority for the area within the County that is also within that municipality's ETJ. The County shall maintain and make available to the public a list of all municipalities with ETJ within the County and shall identify on that list the Reviewing Authority for each portion of an ETJ within the County. The following procedures shall govern the requirements for review and approval based on the identity of the Reviewing Authority:
  - (1) For Applications for which the County is the Reviewing Authority, Applicants shall follow the procedures outlined in these Regulations.
  - (2) For Applications for which a municipality is the Reviewing Authority, a person wishing to file record documents with the County Clerk for a development activity approval shall with those documents file a certificate that indicates that the development activity has either been approved by the municipality or is exempted from the municipality's development regulations, and that all fees due to the County have been paid. The applicant bears the burden of establishing to the Commissioners Court that no municipal approval is required.
  - (3) For Applications for which the Reviewing Authority is a joint office established by the County and one or more authorized municipalities through inter-local agreement, the implementing departments, agencies and employees of the County shall maintain and make available to the public a current copy of the regulations and procedures for the Reviewing Authority. A person wishing to file record documents with the County Clerk for a Development Authorization shall with those documents file a certificate that indicates that the development activity has either been approved by the Reviewing Authority or is exempted from the Reviewing Authority's development regulations, and that all fees due to the County have been paid. For a development activity that the Applicant asserts is exempt from obtaining an approval from the Reviewing Authority,



the Applicant bears the burden of establishing to the Commissioners Court that no Reviewing Authority approval is required.

- (C) Unless otherwise expressly stated in an agreement between the County and the Reviewing Authority, the County's fees shall be assessed on all Applications for Development Authorizations for which the County is not the Reviewing Authority where any portion of the Subject Property is located outside the incorporated limits of a municipality. The County's fees shall be separate and severable from fees assessed by other entities on an Application. A waiver of fees by the Reviewing Authority shall not constitute a waiver of fees by the County, unless the County's fees are duly waived under these regulations.

### **§2.05. Affect of Regulations on Prior Development Authorizations**

- (A) These Regulations shall not alter the rights granted by any prior Development Authorizations issued by the County, provided that:
  - (1) Such Development Authorization has not expired based on the provisions of the Development Authorization or the regulations or ordinances under which such Development Authorization was issued; and,
  - (2) The activities authorized under such Development Authorization are conducted in accordance with the provisions of the Development Authorization or the regulations or ordinances under which such Development Authorization was issued.
- (B) Any person who holds a Development Authorization issued by the County prior to the effective date of these regulations may petition the County to modify such prior Development Authorization to comply with any portion of these Regulations. This petition should be submitted in writing in accordance with Subchapter 15 of this Chapter.

### **§2.06. Affect of Regulations on Pending or Previously Filed Applications**

- (A) These Regulations shall not alter the rights granted by TLGC Chapter 245 to applications filed or pending before the effective date of these Regulations. Applications filed or pending before the effective date of these Regulations, and subsequent County-issued Development Authorizations related to such pending applications, have the right to be reviewed under the regulations in effect at the time the original application was filed, provided that:
  - (1) The Application has not expired in accordance with the regulations in effect at the time of filing;
  - (2) The Applicant timely files supplemental information requested by the Department for consideration; and,
  - (3) The Application is not denied by the Commissioners Court.
- (B) Applications pending before the effective date of these Regulations that expire at any time after the effective date of these Regulations shall be null and void and shall disqualify the Applicant, Permittee and owner of the Subject Property from the ability to submit any subsequent applications for consideration under prior regulations based on the original application date of the expired application. Expired applications shall require a complete new Application be submitted under these Regulations.

- (C) An Applicant with an Application pending on the effective date of these regulations may petition the County to have such application considered under these Regulations. This petition must be submitted in writing in accordance with Subchapter 15 of this Chapter.

### **§2.07. Affect of Regulations on Previously Unregulated Activities**

These regulations shall be implemented as presented below for each of the following categories of previously unregulated activities:

- (A) For persons, facilities and sites that commence newly regulated activities following the effective date of these Regulations, such persons, facilities and sites shall comply with the terms of these Regulations on the date such regulated activity commences.
- (B) Persons, facilities and sites that have commenced newly regulated activities prior to the effective date of these Regulations shall have one hundred eighty (180) calendar days to bring such regulated activities into compliance with these Regulations.
- (C) For those newly regulated activities that require approval of the County, such persons, facilities and locations that have commenced newly regulated activities prior to the effective date of these Regulations shall bring such regulated activities into compliance with these Regulations within thirty days of final action by the County on their application; provided such application was filed within one hundred eighty (180) calendar days of the effective date of these Regulations.

### ***Sub-Chapter 3 - Definitions***

#### **§3.01. Language Construction and Meaning**

Unless otherwise indicated by individual Chapters of these Regulations, the language construction and meaning shall be that assigned in common usage at the time of their adoption.

#### **§3.02. Defined Terms Used in the Regulations**

Unless otherwise indicated by individual Chapters, the following terms, when used in these Regulations, shall have the meanings ascribed to them as outlined below.

- (A) Acre - A unit of area equal to 43,560 square feet. When calculating the acreage of any Lot, the gross square footage within the Lot shall be used, provided any area within a private roadway easement or an easement for a Shared Access Driveway shall be excluded.
- (B) Applicant - A person seeking approval of an application submitted pursuant to these Regulations.
- (C) Application – A document or series of documents describing the applicant, the property, the activity for which approval is sought, how the activity satisfies the requirements of these regulations, and which is filed with the intent of obtaining approval of the application.
- (D) Calendar Day – any and all days shown on the County’s official calendar, inclusive of holidays and weekends.
- (E) Commissioners Court - The Commissioners Court of Hays County.

- (F) Conservation Easement – an easement on real property for the purpose of limiting or restricting development activities on the property subject to said easement. To qualify as a Conservation Easement under this Chapter, the easement shall be granted to the public and shall be held by the County or other non-profit legal entity recognized by the County as custodian for the County. A Conservation Easement shall be in such form and under such conditions as are acceptable to the County.
- (G) Contiguous Property(ies) - land parcels, tracts or lots of real property that are immediately adjacent, connected to one another or share a common boundary, but may also includes land separated only by a roadway, utility corridor or aquatic feature. Properties that are separated by a roadway, utility corridor or aquatic feature within two hundred feet are considered Contiguous Properties.
- (H) Contributing Zone of the Edwards Aquifer - The area or watershed where runoff from precipitation flows downgradient to the recharge zone of the Edwards Aquifer and is generally located upstream (upgradient) and north to northwest of the recharge zone, as identified by the Texas Commission on Environmental Quality (TCEQ) under the Edwards Aquifer Rules. It is the intent of the County that this definition conform to the corresponding definition included in the TCEQ Edwards Aquifer Program regulations, as subsequently amended. In the event an Applicant cannot determine with specificity the location of the boundary of the Contributing Zone of the Edwards Aquifer, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department.
- (I) County - Hays County, Texas. Where referenced herein, the County may include either the Commissioners Court or personnel, departments or agencies of the County acting under authority delegated to such personnel, departments or agencies by the Commissioners Court.
- (J) County Clerk - The County Clerk of Hays County.
- (K) Department – Either the Hays County Transportation Department or Hays County Development Services Department, as applicable.
- (L) Development - All land modification activity, including the construction of buildings, roadways, paved storage areas, parking lots, storm water management facilities and other impervious structures or surfaces.
- (M) Development Agreement – A written agreement entered into between the County, the Permittee and/or the Owner(s) of the Subject Property that stipulates the conditions under which development activities on the Subject Property will be conducted. Development Agreements must have the approval of the Hays County Commissioners Court.
- (N) Development Authorization – The approval by the Hays County Commissioners Court or by departments, agents, or personnel delegated such approval authority by the Commissioners Court of one or more Applications for development activities governed by these Regulations for a specific project or tract of land, as identified in such Application(s). Development Authorizations shall include approved preliminary plans, final plats, flood hazard area permits, on-site sanitary sewer facility permits, Manufactured Home Rental Community permits, Permits for the Use of County Property or Facilities, a Land Use/Location Restriction license, combinations of any such permits

or licenses, and any other approvals or authorizations issued under these Regulations. This term shall also apply to Development Authorizations or equivalent approvals issued by the County prior to the effective date of these Regulations.

- (O) Director - The Director of the Hays County Transportation Department or Hays County Development Services Department, as applicable, and any successor thereto.
- (P) Dwelling Unit –One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of one household. Dwelling units may include:
  - (1) A Single Family Residence;
  - (2) An Apartment;
  - (3) A Condominium Unit; or,
  - (4) A Manufactured Home within a Manufactured Home Rental Community;
- (Q) Edwards Aquifer Recharge Zone - Any area where the stratigraphic units constituting the Edwards Aquifer crop out, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Edwards Aquifer, as identified by the Texas Commission on Environmental Quality under the Edwards Aquifer Rules. It is the intent of the County that this definition conform to the corresponding definition included in the TCEQ Edwards Aquifer Program regulations, as subsequently amended. In the event an Applicant cannot determine with specificity the location of the boundary of the Edwards Aquifer Recharge Zone, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department. Any determination by the Department will affect only these Regulations and will not in any manner be binding upon the TCEQ. The Department may require the Applicant to obtain a determination from the TCEQ, and any determination by the TCEQ regarding the location of the Recharge Zone will control for purposes of these Regulations. The intent of these Regulations is to coordinate applicable state and local regulations such that the definition of the Edwards Aquifer Recharge Zone under these Regulations shall be identical with the definition found within the Edwards Aquifer Rules.
- (R) Edwards Aquifer Rules - The Regulations promulgated by the Texas Commission on Environmental Quality (TCEQ) relating to the Edwards Aquifer, currently set forth in Title 30, Texas Administrative Code, Chapter 213, as amended from time to time.
- (S) Endangered Species Act - the federal Endangered Species Act of 1973, including any and all subsequent amendments.
- (T) Final Plat - A map of a proposed Subdivision of land prepared in a form suitable for filing of record with all necessary survey drawings, notes, information, affidavits, dedications and acceptances as required by these Regulations.
- (U) Groundwater Conservation District (GCD) - A special district or other governmental entity authorized under the laws of the State of Texas with authority over groundwater resources as identified in the Texas Water Code, Chapter 36. Current Groundwater Conservation Districts in Hays County include the Barton Springs Edwards Aquifer

- Conservation District, the Edwards Aquifer Authority and the Hays Trinity Groundwater Conservation District.
- (V) Local Groundwater – Water obtained by pumping or extracting water from below the surface of the ground from an Aquifer native to Hays County such as the Trinity or Edwards Aquifers.
  - (W) Lot - Any tract to be created by the division of the Original Tract pursuant to a proposed Subdivision Application or a Manufactured Home Rental unit or space including the remainder of the Original Tract, as well as existing platted and un-platted tracts, and exempt subdivisions.
  - (X) Manufactured Home Rental Community - a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than sixty (60) months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.
  - (Y) Official County Records – the official County map records, deed records, and such other official County records as the County Clerk may be required or in fact does maintain.
  - (Z) On-Site Sewage Facility Rules – The Order Adopting Rules of Hays County, Texas, for On-Site Sewage Facilities, as shown in Appendix A and as may be amended from time to time.
  - (AA) Original Tract - The original tract of land owned by an Owner prior to the proposed Subdivision.
  - (BB) Owner(s) - The holder(s) of a legal or equitable interest in real property as shown by the deed records of the county in which the property is located, and which has been included in an Application or Development Authorization under these Regulations.
  - (CC) Permittee – A person, including legal successors or assigns, to whom the County actually issues a Development Authorization and who is responsible for complying with the terms of said Development Authorization, including any representations, covenants and agreements included in the Application and any special provisions incorporated by the County into the Development Authorization. A person indicated on an Application as a Permittee shall be considered a prospective Permittee until such time as a Development Authorization is issued to such Permittee.
  - (DD) Permitted Sewer System - Any public or private sewerage system for the collection of sewage that flows into a treatment and disposal system that is regulated pursuant to the rules of the Texas Commission on Environmental Quality (TCEQ) and Chapter 26 of the Texas Water Code for which the TCEQ is the permitting authority.
  - (EE) Person - any natural person, trust, estate, partnership, limited partnership, association, company, corporation, political subdivision or other legal entity recognized by the Texas Secretary of State.
  - (FF) Phased Development Agreement – A Development Agreement that allows for the timely and orderly development process of a large-scale development in phases.
  - (GG) Political Subdivision - A county, municipality, school district, junior college district, housing authority, authority established by the Texas Legislature, municipal utility

district, water control and improvement district, groundwater conservation district, emergency services district, other special district, or other political subdivision of the State of Texas.

- (HH) Preliminary Plan - A map of proposed Subdivision of land showing the general dimensions and boundaries of each Lot, the layout of the proposed streets, drainage improvements, utility infrastructure, if any, easements, and other information required by these Regulations.
- (II) Priority Groundwater Management Area (PGMA) - A geographic area designated and delineated by the Texas Commission on Environmental Quality that is experiencing or is expected to experience, within the immediately following 25-year period, critical groundwater problems, as identified in Title 30, Texas Administrative Code, Chapter 294.
- (JJ) Private Well - Shall have the meaning ascribed in the On-Site Sewage Facilities Rules provided in Appendix A, as amended.
- (KK) Public Water Well - Shall have the meaning ascribed to “Public Well” in the On-Site Sewage Facilities Rules provided in Appendix A, as amended.
- (LL) Rainwater Harvesting System - Shall have the meaning ascribed in the On-Site Sewage Facilities Rules provided in Appendix A, as amended.
- (MM) Record Documents – Documents included and associated with an Application or Development Authorization, including but not limited to:
  - (1) Information included with the Application;
  - (2) Deeds, including restrictive covenants;
  - (3) Plats;
  - (4) Easements, including Conservation Easements;
  - (5) Development Agreements, including Conservation Development Agreements; and,
  - (6) Any other document required under these Regulations.
- (NN) Regulated Roadways – Those roadways, including the associated right-of-way and features constructed in the right-of-way, located within the County but outside the incorporated limits of any municipality in the County, associated with an Application for a Development Authorization under these Regulations, including the following:
  - (1) Existing dedicated public roadways that are improved or on which construction or tie-ins are made in association with the proposed development for which an Application is submitted under these regulations;
  - (2) New roadways dedicated to the public through any action of the County;
  - (3) New roadways dedicated to the public to be maintained by the County including roadways constructed as a part of a subdivision, Manufactured Home Rental Community or other type of Development Authorization approved under these Regulations; and,
  - (4) Private roadways, shared access easements, and shared access driveways not dedicated to the public and not maintained by the County, but used for emergency services access or

general egress/ingress by the public as a part of any Development Authorization issued under these Regulations.

- (OO) Regulations - The Hays County Development Regulations, inclusive of Chapters 701 through 799.
- (PP) Reviewing Authority – An authorized municipality, Hays County, or a joint office established by one or more authorized municipalities and Hays County for the purpose of conducting reviews and issuing approvals for development activities.
- (QQ) Single Family Residence - Any habitable structure constructed on, or brought to, its site and occupied by members of a family, including but not limited to manufactured homes situated on leased space.
- (RR) Subdivision - The division of a tract of land situated within Hays County and outside the corporate limits of any municipality into two or more lots to lay out or identify: (i) a subdivision of the tract, including an addition; (ii) lots; (iii) roadways, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the roadways, alleys, squares, parks, or other parts; or (iv) division of the property for the purposes of establishing a security interest or a financial severance. It is the intent of the Commissioners Court of Hays County that the term "subdivision" be interpreted to include all divisions of the land to the fullest extent permitted under the laws of the State of Texas.
  - (1) A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance, in a contract for deed or other executory contract to convey, in a lease (other than agricultural and hunting leases), or by using any other method of a conveyance of an interest in land.
  - (2) A division of land shall be considered as relating to the laying out of streets, whether public or private, if:
    - The division occurs prior to the later to occur of: two (2) years from the date of the completion of construction of any roadway onto which the Lot has frontage or, in the case of public roadways, the expiration of the performance or maintenance bond for any such roadway;
    - The division of land creates one or more Lots without practical, physical vehicular access onto a Regulated Roadway or with less than fifty feet (50') of direct frontage onto a Regulated Roadway or calls for driveways onto Regulated Roadways that are spaced fewer than fifty feet (50') apart;
    - The division of land will affect drainage on, in or adjacent to a public roadway or any county drainage ditch, swale, culvert or other drainage facility; or
    - Other circumstances exist which, in the determination of the Department, cause such division of land to be related to the laying out of roadways or related to drainage for any roadway to which any Lot has access.
- (SS) Subject Property – the property or tract for which an Application has been submitted under these Regulations.

- (TT) Surface Water - Water from streams, rivers or lakes or other bodies of water above the surface of the ground.
- (UU) TCEQ Regulated Development - Any development or construction activity that would constitute a Regulated Activity under the Texas Commission on Environmental Quality Edwards Aquifer Rules (see 30 TAC §213.3), but without regard to the aquifer over which the activity is conducted. If a Lot larger than five acres is restricted by plat note prohibiting (i) further resubdivision of the Lot into lots five acres in size or smaller and (ii) any Development other than the construction of a single-family residence or duplex and associated customary out buildings, such as a barn or garage apartment, then such Development on the Lot shall be considered excluded from the term "TCEQ Regulated Development" for purposes of these Regulations.
- (VV) Wetland(s) - an area (including a swamp, marsh, bog, prairie pothole, or similar area) having a predominance of hydric soils that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support it and that under normal circumstances supports the growth and regeneration of hydrophytic vegetation. The intent of this definition is to conform to the corresponding definition included in the Texas Water Code, Chapter 11, Subchapter J, as subsequently amended.
- (WW) Working Day – Any recognized working day that the County offices are routinely open for business, specifically excluding weekends and holidays recognized by the County.

#### ***Sub-Chapter 4 - Delegation of Authority, Appeals and Public Records***

##### **§4.01. Responsible Departments**

The Commissioners Court designates the Hays County Development Services Department (Department), and specifically the Director of the Department, as agent for receiving and reviewing Applications submitted under these regulations and as custodian of records for all information received, acquired or developed during the exercise of these duties. The Department may coordinate with any other County department, agency or personnel in the performance of the duties required and allowed under these regulations.

##### **§4.02. Delegation of Authority**

The Department and Director are delegated the authority by the Commissioners Court to conduct the activities required on behalf of the County under these regulations. All officials and employees of Hays County, Texas, having duties under these Regulations are authorized to perform such duties as are required of them under said Regulations. The Commissioners Court reserves the final authority for approval or denial of any Application submitted under these regulations.

##### **§4.03. Appeals**

Persons aggrieved by an action or decision of a designated representative of the Commissioners Court may appeal any such action or decision to the Commissioners Court of Hays County, Texas. Any such appeal shall be filed with the County Clerk and with the office of the County Judge within ten days from the date the aggrieved person receives notice of such action or decision.



#### **§4.04. Public Records**

The information received, acquired or developed by the Department during the exercise of these duties is hereby designated to be of public record subject to the terms of the Texas Public Information Act (TPIA). The Department shall maintain and make available to the public all information received, acquired or developed by the Department in accordance with the TPIA, including charging any authorized fees. The Department shall maintain and make available to the public at no charge copies of these Regulations, and any and all application forms, policy documents, guidance documents, technical appendices or any other such documents that are developed by the County to implement this program, as outlined in Chapter 799. In addition to maintaining physical copies of these documents available at the Department headquarters, the Department may also make these documents available to the public using whatever means it may deem appropriate and as required by federal, state or local law, including posting on any electronic medium maintained or used by the County. The Department may also make available to the public at no charge by posting on electronic medium additional documents it receives for which it determines there is significant public interest.

### ***Sub-Chapter 5 - Outstanding Tax Liabilities***

#### **§5.01. Property Requirements**

Subject Properties for which an Application is submitted under these regulations shall not be delinquent on tax liabilities with the County. This requirement is independent of whether the Subject Property included in the Application is owned by the Applicant or Permittee.

#### **§5.02. Documentation of Tax Status**

Applications submitted under these Regulations shall provide any applicable identification numbers from the Hays Central Appraisal District (HCAD) or other duly appointed tax assessing entity for the Subject Property. The Department and/or its designated representatives may independently investigate the status of payment of County taxes for the Subject Property. The Department may require the Applicant to submit tax certificates for the Subject Property.

#### **§5.03. Suspension of Processing**

The County may suspend processing of any Application submitted under these regulations if the County becomes aware that taxes on the Subject Property are delinquent.

#### **§5.04. Payment of Delinquent Taxes Prior to Issuance**

Payment of any delinquent taxes (including penalties, interest, late fees, etc) on behalf of the Subject Property shall be required prior to the issuance of any Development Authorization under these Regulations. As approved or delegated by the Commissioners Court, the County may settle or adjust the required payments to satisfy this requirement.

#### **§5.05. Disputed Tax Situations**

In situations where the amount of tax owed to the County is in dispute, payment of all non-disputed amounts will be required. If the dispute is resolved while the Application is under consideration, payment of the final resolution amount shall be made prior to the County issuing the Development Authorization. Any payments made to the County in excess of the final resolution amount may be credited towards other amounts due the County (e.g. review and

inspection fees, payments-in-lieu, etc) or they may be refunded, at the option of the person making the excess payment.

### ***Sub-Chapter 6 - Fees***

#### **§6.01. Establishment and Assessment of Fees**

The Commissioners Court shall establish fees for Applications, permits, inspections, reviews or other activities as required or allowed under these regulations. These fees may be amended from time to time by the Commissioners Court without amending or affecting the remainder of these Regulations. The Department shall maintain and make available to the public a list of all fees established under these Regulations. Any dispute between the Applicant and the Department regarding the basis or amount of applicable fees may be appealed by either party to the Commissioners Court.

#### **§6.02. Payment of Fees**

- (A) For fee amounts estimated to exceed \$100, the Applicant may elect to pay review fees to the County separately as an administrative review fee and a technical review fee. If the Applicant makes this election, the Applicant shall submit payment of the administrative review fee and shall provide an estimate of the technical review fees and any other subsequent fees. The Department shall include with their administrative completeness determination a confirmation or adjustment of the technical review fees and other fees. The amount determined by the Department shall serve as the basis for payment of the subsequent fees.
- (B) All fees for Applications, permits, inspections or other fees required or allowed under these Regulations shall be made payable to the Hays County Treasurer. The fees shall be determined in U.S. dollars in accordance with the most recent fee schedule approved by the Commissioners Court. Payment may be made using any payment method established by the Commissioners Court for transacting County business.

#### **§6.03. Waiver or Deferral of Fees**

The Commissioners Court may agree to waive or defer any or all fees assessed in conjunction with these Regulations to the extent that the Commissioners Court determines that such waiver or deferral is in the public interest. The Department is authorized to waive fees assessed to Political Subdivisions (as defined in this Chapter) under these Regulations to the extent that those Political Subdivisions have or will waive similar or corresponding fees assessed to the County for similar types of approvals.

#### **§6.04. Additional Fees for Items Returned Unpaid**

The Commissioners Court may establish additional fees to be assessed in the event that any form of payment made to the County under these Regulations is returned unpaid.

#### **§6.05. Refunds of Fees**

Unless specifically noted herein, all fees paid to the County are non-refundable. The Department may refund fees under the following circumstances:

- (A) Fees collected for reviews and/or inspections that are not actually conducted;
- (B) Fees collected that exceed the fee offset by authorized economic incentives; or,

- (C) Permit fees for any portion of a permit term where the Permittee voluntarily surrenders or revokes the permit.

### ***Sub-Chapter 7 - General Application and Approval Procedures***

#### **§7.01. Application Forms**

The Department shall develop and make available to the public forms for submitting Applications for the various types of approvals required under these regulations. These Application forms shall provide for the following information:

- (A) the legal name of the Applicant;
- (B) the name or title by which the Applicant will describe the application (for Subdivision Applications only);
- (C) the name, address and contact information for the Applicant’s designated contact person and any person submitting Application materials on behalf of the Applicant;
- (D) the legal name, address and contact information for the Owner(s) of the Subject Property, if different from the Applicant;
- (E) The legal name of the Permittee, if the Development Authorization is to be issued to a person that is not the Applicant;
- (F) the HCAD Property Identification number(s) for the Subject Property;
- (G) the type of application being submitted;
- (H) the identification of any supplemental information submitted;
- (I) the County Precinct(s) in which the Subject Property is located;
- (J) general location information for the Subject Property, including any or all of the following:
  - (1) The “911” Street Address;
  - (2) Geographic Coordinates (for Subdivision Applications only);
  - (3) Current Legal Description;
  - (4) The Primary and Secondary Access/Frontage Roadways (for Subdivision Applications only);
- (K) certifications by the Applicant, the property Owner and the Permittee required under these regulations;
- (L) the signature of the Applicant;
- (M) documentation for tracking the Application through the County’s review process;
- (N) the number of copies of the Application and supplemental information to be submitted; and,
- (O) Any other information requested by the Department to fully evaluate the proposed development project.

The Applicant is responsible for ensuring that all applicable information regarding the Application is provided on the Application Form. Supplemental information may be attached to the Application Form but should be noted in the designated section of the Application Form.

### **§7.02. Representations and Certifications**

By submitting an Application under these regulations, the Applicant, Permittee and/or the owner(s) of the Subject Property shall represent and certify:

- (A) there is no delinquent tax liability to the County on the Subject Property;
- (B) the owner(s) of the Subject Property has authorized the submittal of the Application;
- (C) the County is authorized to review and act upon the application.

### **§7.03. Supplemental Information**

Where required by individual Chapters, the Applicant shall submit the specified number of copies of supplemental material. Supplemental information shall conform to the following format:

- (A) Where possible, supplemental information should be submitted in black and white format. The submittal of color information should be coordinated in advance with the Department.
- (B) Supplemental information consisting primarily of text shall be submitted on 8-1/2" x 11" standard paper.
- (C) Drawings or graphic information should be submitted using one of several commercially available sizes of standard paper:
  - (1) 8-1/2" x 11" standard paper (Size A)
  - (2) 11" x 17" standard paper (Size B)
- (D) With prior coordination, Applicants may submit over-sized drawings or graphic information on any standard commercially available media, including:
  - (1) 17" x 22" or 18" x 24" (Sizes C or C1)
  - (2) 22" x 34" or 24" x 36" (Sizes D or D1)
  - (3) 34" x 44" or 36" x 48" (Sizes E or E1)
- (E) Where required by these Regulations, certain digital data must be submitted in addition to the hard copies, including digital versions of certain drawings and graphics and geographic coordinates. The Department shall develop, update and make available to the public the digital file and geographic format requirements and transmittal or delivery procedures and formats. These shall be published as the Hays County Digital Data Submittal Standards.
- (F) Where required by these Regulations or other applicable law, professional engineering, architecture, professional geoscience, professional sanitarian and professional surveying submittals shall be appropriately signed and sealed by an individual currently licensed to practice in Texas in accordance with the Texas Engineering Practice Act (Chapter 1001 of the Texas Occupations Code[TOC]), the Texas Architectural Practice Act (Chapter

1051 of the TOC), the Texas Geoscience Practice Act (Chapter 1002 of the TOC), the Texas Sanitarian Practice Act (Chapter 1953 of the TOC) and/or the Texas Professional Land Surveying Practices Act (Chapter 1071 of the TOC).

#### **§7.04. Application Fees**

Each Application submitted under these regulations shall be accompanied by the payment of all applicable fees identified under these regulations. The Application fees shall be non-refundable and in the amounts set forth in these Regulations.

#### **§7.05. Supplemental Requirements Based on Type of Applicant or Permittee**

Applicants or Permittees who are not individuals (“natural persons” as defined in the Texas Business Organizations Code §1.002) must submit additional documentation in accordance with the following requirements:

- (A) Applicants that are entities that are not natural persons shall file with the County:
  - (1) A certified copy of a resolution or other documentation approved by the entity’s governing body authorizing the entity to file documents pursuant to these Regulations and designating the natural person(s) authorized to execute documents on behalf of the entity;
  - (2) Additional documentation as may be required by the County documenting the existence of the entity and the authority of those natural persons acting on behalf of the entity.
  - (3) For applications other than for the subdivision of property, a letter on company letterhead, signed by an authorized official of such company, authorizing the Application to file an Application on behalf of the company.
- (B) Applicants that are business entities that are not natural persons shall submit (for Subdivision Applications only):
  - (1) The name and address for service of process of the registered agent of the business entity; and,
  - (2) A date-stamped copy of the entity’s enabling documents filed with the Texas Secretary of State, or as otherwise existing.
- (C) Applicants that are governmental entities that are requesting a waiver of fees by the County shall submit written documentation signed by the entity’s chief elected official or chief executive officer formally requesting the County to waive the applicable fees and indicating that the entity will in turn waive similar fees for the County. The Director is authorized to waive such fees upon receipt of the necessary documents.
- (D) Applicants using an assumed name shall submit a date-stamped copy of the Certificate of Assumed Name (for Subdivision Applications only).

#### **§7.06. Application Identification**

Upon receipt of an Application, the Department shall assign a unique reference identifier to the Application. The Department may elect to assign one reference identifier to a group of related Applications. The Department may also elect to utilize identifiers that allow tracking of different types of applications. The assigned reference identifier shall be utilized by the Department and the Applicant on all documents related to the Applications. All Application forms developed and

utilized by the Department under these Regulations shall designate a prominent location for this reference identifier.

#### **§7.07. Administrative Review**

Before an Application filed under these regulations will be reviewed by the Department, it must be administratively complete. An administratively complete Application will contain responses to all items on the Application form, will be accompanied by the payment of all applicable fees, and will have the tax status confirmed for the Subject Property. The Department shall conduct an initial review of the Application to determine whether it is administratively complete. If the Application is not administratively complete, the Department shall notify the Applicant of the deficiencies with the Application not later than ten (10) working days after the date the Application is received by the County. Further processing of the Application shall be suspended until these administrative deficiencies have been remedied. The Applicant shall provide a written response to each noted deficiency issued by the County, accompanied by any additional information required to respond to such deficiency. Once a Subdivision Application has been determined by the Department to be administratively complete, the Department shall provide written confirmation to the Applicant, with a copy to the County Commissioner(s) in whose precinct the Subject Property is located. All other applications which are administratively complete shall immediately be subject to technical review without requirement of the notices. All administratively complete applications shall be subjected to a technical review by the Department.

#### **§7.08. Technical Review**

Before an Application filed under these regulations can be subjected to a technical review by the Department, it must be determined to be administratively complete. Before an Application filed under these regulations will be submitted to the Commissioners Court for final action, the Application shall be reviewed by the Department and determined to be technically complete. The Department shall review the Application to ensure that it complies with the technical requirements of these regulations, including any applicable variances requested. If the Application is not technically complete, the Department shall notify the Applicant of the technical deficiencies with the Application. Further processing of the Application shall be suspended until these deficiencies have been remedied. The Applicant shall provide a written response to each noted deficiency issued by the County, accompanied by any additional information required to respond to such deficiency. Once a Subdivision Application has been determined by the Department to be technically complete, the Department shall provide written confirmation to the Applicant, with a copy to the County Commissioner(s) in whose precinct(s) the Subject Property is located. All other Applications which are technically complete will result in the mailing of a permit to the Applicant without requirement of the additional notices, with a copy of the permit being provided to the County Commissioner upon request. An Applicant that disagrees with the Department's determination of technical deficiencies in the Application may petition the Department to forward the Application to the Commissioners Court without resolving the alleged deficiencies. Such requests shall be made in writing to the Department with a copy to the office of the County Judge.

#### **§7.09. Combined Administrative and Technical Review**

Applications which are routine in nature and have a limited number of technical requirements may, at the discretion of the Department, have both the administrative and technical reviews

conducted together. The Department may also combine the written confirmation of administrative and technical completion required in §701.7.07 and §701.7.08.

#### **§7.10. Expiration of Application and Suspension by Agreement**

Unless an extension request is submitted to the Department in writing and such extension is subsequently granted in writing by the County, Applications for which the deficiencies are not remedied within sixty (60) calendar days following issuance of the notice of deficiencies are deemed expired and shall be returned to the Applicant. Extension requests may be granted administratively by the Department for a period of up to and inclusive of sixty (60) calendar days. Extension requests exceeding this requirement must be submitted to the Department in writing and must be subsequently approved by the Commissioners Court.

#### **§7.11. Action on Applications Following Technical Review**

For Applications that the Department determines to be technically complete, the Department shall also determine whether the Application qualifies for administrative approval in accordance with Subchapter 8 of this Chapter. Technically complete applications that qualify for administrative approval shall be issued the appropriate type of Development Authorization by the Department in accordance with Subchapter 11 of this Chapter. Applications that are technically complete, but which do not qualify for administrative approval, shall be forwarded to the Commissioners Court. Applications that the Department determines to not be technically complete, but for which the Department has received a petition to submit to the Commissioners Court, shall be forwarded to the Commissioners Court within ten (10) working days of receipt of such petition.

#### **§7.12. Applications Forwarded to Commissioners Court**

All Applications forwarded by the Department for consideration by the Commissioners Court shall be submitted to the County Clerk with a request that the item be placed on the agenda for consideration by the Commissioners Court. Along with the Application, the Department shall make a written recommendation to the Commissioners Court that the application be approved, approved with changes, or denied. The Department shall provide a copy of the Application and the Department's recommendation to the Commissioner(s) in whose precinct(s) the Subject Property is located.

#### **§7.13. Notice of Action on Application**

The Department shall notify all Applicants of the final action taken on their Application. Development Authorizations issued administratively by the Department or based on an Approval by the Commissioners Court shall comply with the notice requirements in Subchapter 11 of this Chapter. For Applications that are denied either by the Commissioners Court or administratively by the Department, the Department shall send written notice to the Applicant, the Permittee and the owner of the Subject Property providing a detailed list of reasons the application is denied. Unless otherwise required, notice of action on an Application shall be sent within ten (10) working days of said action.

#### **§7.14. Withdrawal of Application**

An Applicant may withdraw an Application by submitting a written request to the Department. Upon receipt of a written request for withdrawal of an Application, the Department shall cease processing the Application and shall confirm the withdrawal of the Application in writing, with

copies forwarded to the Applicant, Permittee, owner of the Subject Property, and the Commissioner(s) in whose precinct(s) the Subject Property is located. The written confirmation shall address the disposition of fees (both refundable and non-refundable) and shall indicate that a new application, including fees, shall be required prior to conducting any of the regulated activities included in the original Application.

### ***Sub-Chapter 8 - Administrative Authorization and Variances***

#### **§8.01. Delegation of Administrative Authorizations**

The Commissioners Court hereby delegates to the Department the authority to issue certain Development Authorizations administratively, subject to the following conditions:

- (A) The Department may grant the following types of acknowledged administrative authorizations:
  - (1) Plat amendments pursuant to Section 705.11.04
  - (2) Site Development Reviews issued under Chapters 711 and 755;
  - (3) Utility service certifications for developments where the County has issued a Development Authorization and which are in compliance with these regulations;
  - (4) Flood Hazard Area Permits issued under Chapter 735 that either request no variances or request only variances for which the Department has been delegated variance approval authority;
  - (5) On-Site Sewage Facility (OSSF) permits issued under the Hays County On-Site Sewage Facilities rules that either request no variances or request only variances for which the Department has been delegated variance approval authority;
  - (6) Registrations and Minor Permits for Use of County Facilities issued under Chapter 751;
  - (7) Determinations of Qualification for Economic Incentives issued under Chapter 761;
  - (8) Modifications of existing Development Authorizations that qualify under items (1) through (7) of this Section; and,
  - (9) Transfers of existing Development Authorizations that fall into one of the following categories:
    - (a) Transfers involving only the elimination of one or more of multiple original Permittees, provided at least one of the original Permittees continues to hold the transferred Development Authorization.
    - (b) Transfers of existing Development Authorizations to legal successors recognized under law in the event of death, incapacitation, or insolvency of an original Permittee, provided that the Applicant for the transfer submits appropriate documentation that is reviewed and determined to be valid by the Hays County Criminal District Attorney's office, or such other authorized legal representative as may be designated by the Commissioners Court. Transfers resulting from a sale do not qualify for consideration as an administrative authorization, even if preceded by an otherwise qualifying event.



- (B) The Department shall provide notice to the County Commissioners of all administrative approvals granted:
  - (1) The Department shall notify the Commissioner(s) in whose precinct(s) the Subject Property is located of the issuance of an administrative Development Authorization by forwarding a copy of the Development Authorization to the Commissioner(s) at the same time it is forwarded to the Applicant.
  - (2) The Department shall forward a written report to Commissioners Court identifying all administrative approvals issued during a particular calendar month. This report shall be forwarded for inclusion on the Commissioners Court agenda not later than the tenth working day following the end of the subject month.

### **§8.02. Criteria for Variance**

The Commissioners Court shall have the authority to grant variances from these Regulations when the public interest or the requirements of justice demands relaxation of the strict requirements of the Rules, or to avoid a regulatory taking. Factors to be considered in evaluating a request for variance shall include:

- (A) The actual situation of the property in question in relation to neighboring or similar properties, such that no special privilege not enjoyed by other similarly situated properties may be granted;
- (B) Whether strict enforcement of the Regulations would deny the Applicant the privileges or safety of similarly situated property with similarly timed development;
- (C) That the granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to other property or will not prevent the orderly development of the land in the area in accordance with these Regulations;
- (D) Whether there are special circumstances or conditions affecting the land or proposed development involved such that strict application of the provisions of these Regulations would deprive the applicant the reasonable use of his land and that failure to approve the variance would result in undue hardship to the applicant and/or a regulatory taking; and,
- (E) Pecuniary hardship standing alone shall not be deemed to constitute undue hardship.

### **§8.03. Application Materials**

Any person who wishes to receive a variance should apply to the Department with a list of, and a detailed justification, for each variance requested.

### **§8.04. Discretion to Grant Variances**

The decision of the Court whether to grant or deny a variance is at its complete discretion and will be final. The Commissioners Court may delegate the responsibility for administratively approving certain variances to the Department or other County departments or personnel as the Court deems appropriate in implementing these Regulations.

### **§8.05. Acknowledged Administrative Variances**

The Department may grant the following types of administrative variances:

- (A) Variances in the design and construction associated with a Flood Hazard Area Permit (FHAP) issued under Chapters 711 and 735 that do not result in a change of classification for the FHAP.
- (B) Variances in the design, construction and operation for OSSFs permitted under Chapter 711 and the Hays County On-Site Sewage Facilities rules that:
  - (1) Are specifically authorized under TCEQ regulations; and,
  - (2) Involve minimum lot size requirements under County regulations for existing residential OSSFs that are required to be re-certified.
- (C) Variances in the design, construction and operation of a Manufactured Home Rental Community permitted under Chapters 711 and 745 that involve roadway alignments and widths.
- (D) Variances in the alignment, design, and materials of construction for Minor County Facility Use permits issued under Chapters 711 and 751 that otherwise comply with those Chapters.
- (E) Variances for Conservation Developments issued under Chapter 765 as follows:
  - (1) Conservation space that is not a scenic and historic preservation buffer may be included in individual residential or commercial development lots;
  - (2) Maximum percentage of primary conservation area that may be included as conservation space for the purposes of this ordinance may be increased by up to twenty-five (25%) when accommodating endangered species habitat;
  - (3) The minimum percentage of significant and meaningful features or areas required to be included in the design of a conservation space may be reduced by up to one third of the specified requirement;
  - (4) Minimum acreage for a conservation space area/lot may be reduced to no less than fifty percent (50%) for property less than twenty (20) acres in total size;
  - (5) Secondary conservation areas may include recreation space up to twenty percent (20%) of the secondary conservation area portion of the conservation space requirement;
  - (6) The number of dwelling units served by a joint use driveway may be increased;
  - (7) Scenic and historic preservation buffer sizing requirements may be reduced by up to 40% and/or the maximum percentage of conservation space that may be comprised of scenic and historic preservation may be increased to a maximum of ten percent (10%) of the conservation space requirement; or,
  - (8) The Department may accept a conservation space as having met the requirement for preservation of significant and/or meaningful features or areas identified in the ecological assessment if it finds it is in substantial compliance with the requirement and it fulfills the purpose and intent of this ordinance.

#### **§8.06. Criteria for Administrative Variances**

In addition to the criteria identified in §701.08.02, the Department shall make the following determination prior to granting any administrative variance authorized under §701.08.05:

- (A) The variance will improve the functionality of the development on the property;

- (B) The variance will improve the viability or sustainability of the conservation space for the purposes for which it is set aside; or,
- (C) The variance will resolve a conflict between the provisions of this ordinance and other governmental requirements.

### **§8.07. Referral of Administrative Variances to Commissioners Court**

The Department may, upon determining that a proposed administrative variance does not or may not meet the criteria identified in §701.08.06, defer the approval of such proposed administrative variance to the Commissioners Court.

### **§8.08. Appeal of Variance Decision by the Department**

Any Applicant for a variance who disagrees with a decision of the Department regarding the variance may appeal the decision to the Commissioners Court. Any such appeal shall be filed with the County Clerk and with the office of the County Judge within ten days from the date a written decision is issued by the Department on the variance request.

## ***Sub-Chapter 9 - General Public Notice Requirements***

### **§9.01. Communication with Precinct Commissioner**

Where individual Chapters of these Regulations require communication or contact with the Precinct Commissioner, the Applicant or the Applicant's authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed development is located prior to the submission of the Application. This contact or communication shall consist of either written communication or a personal visit by the Applicant or the Applicant's authorized agent. The Commissioner shall establish and make available to the public a copy of contact procedures for this purpose. Commissioners may delegate contact and communication responsibilities to one or more members of their staff. If the Commissioner requests a personal visit in response to receiving written communication, the Applicant or the Applicant's authorized agent shall arrange a personal visit with the Commissioner or the Commissioner's designee at a mutually agreeable time and place. The purpose of this personal visit shall be for the Applicant to inform the Commissioner about the project and for the Commissioner to present to the Applicant any constraints or concerns associated with the project. Documentation of contact or communication with the Commissioner, including the personal visit, if requested, shall be furnished to the County in conjunction with an Application.

### **§9.02. Notice Required**

Where individual Chapters of these Regulations require notice, the Applicant is responsible for accomplishing such notice regarding the Application or any action thereon, including any costs associated with such notice. Where the requirements of state or federal law dictate that the County actually accomplish such notice associated with an Application or any action thereon, the Applicant shall be responsible for the payment of fees and charges established by the Commissioners Court to cover the cost of such notice.

### **§9.03. Documentation**

Where individual Chapters of these Regulations require notice, the Applicant is responsible for furnishing documentation to the County confirming that such notice was accomplished. Specific

documentation requirements shall be established by the Department for each type of notice required under these Regulations.

#### **§9.04. Posted Notice**

Where individual Chapters of these Regulations require posted notice, the Applicant shall be required to notify the public upon the determination by the Department that an Application for a Development Authorization is Administratively Complete. This notice shall be accomplished through posting signs at the Subject Property. Where Posted Notice is required, no exemptions from these requirements shall be allowed. The following requirements apply to Posted Notice, where required:

- (A) Within two (2) working days of receipt of notice from the Department that an Application filed with the County has been determined to be Administratively Complete, the Applicant shall install public notice signs on the Subject Property. Signs shall remain in place on the Subject Property until a final decision is rendered on the Application by the Commissioners Court or until such time as the Application is withdrawn, if the application is withdrawn.
- (B) Signs shall be placed within twenty (20) feet of all property boundaries fronting on a public roadway. Where the length of the boundary fronting on a public roadway exceeds one thousand feet, the signs shall be spaced no further than one-thousand feet apart. At least one sign shall be placed along each public roadway fronting the property. The Applicant shall ensure that the view of the signs is not obstructed by objects on the Subject Property and that the signs are placed where there is an unobstructed view of the signs from the public roadway. Signs are not required to be placed along property boundaries that do not front on a public roadway.
- (C) The signs shall contain the specific text required by the individual Chapter that includes the posted notice requirement. The Department shall develop and make available to the public standard language to be used for each type of posted notice required under these Regulations.
- (D) The signs shall be a minimum size of four feet by four feet, with the bottom of the sign placed at least two feet above ground level. The background of the sign shall be white. The heading on the sign shall be red letters at least three inches high, with the remaining text black letters at least 1-1/2 inches high. The sign shall also contain the reference number that is used by the Department to track the Application for which the posted notice is required. The Department shall develop and make available to the public specific signage criteria and shall make available examples of signs for each type of posted notice required under these Regulations.
- (E) The signs shall be constructed of materials that are sufficiently durable to ensure the sign remains in place and legible during the entire period that posting is required.
- (F) The Department may also, utilizing any procurement process authorized under State law, designate one or more approved vendors from whom Applicants may purchase signage to comply with these Regulations.
- (G) Signs may also be supplied by Applicants. The Department is authorized to require review by the Department of any signs supplied by the Applicant. The Department may

require that such signs supplied by the Applicant be replaced, at the Applicant's expense, if the Department determines that the signs supplied by the Applicant do not strictly conform to the requirements of these Regulations and published Department criteria.

- (H) It shall be the responsibility of the Applicant to submit documentation to the Department that the signs have been properly installed and to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The Applicant shall immediately notify the County of any missing or defective signs. It is unlawful for a person to alter any notification sign or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the Applicant shall not constitute a failure to meet notification requirements. If signs are removed, damaged or become illegible, the Applicant shall replace the signs within three (3) working days.

### **§9.05. Written Notice for Political Subdivisions and Contiguous Properties**

Where individual Chapters of these Regulations require written notice, the Applicant shall be required to notify affected political subdivisions and the owners of Contiguous Properties through written notice. The following provisions apply to Written Notice, where required:

- (A) The written notice must include a map clearly showing the boundaries and general location of the proposed development and major roadways in the vicinity.
- (B) The written notice must include a general description of the nature of the proposed development, including identification of the Applicant and the Permittee and a general description of the nature of the activities for which approval is being requested.
- (C) The written notice must also include any additional information required by the individual Chapter that includes the written notice requirement.
- (D) The Applicant shall forward copies of any written notice to any other parties to the application, including the Permittee and/or the owners of the Subject Property.

### **§9.06. Identification of Affected Political Subdivisions**

Where written notice is required to be submitted to an affected political subdivision, the applicant shall identify all such entities. The identified political subdivisions shall be, at a minimum, those which appear on the tax certificate for the Subject Property. The address for notice purposes for each affected political subdivision shall be available from the Department.

### **§9.07. Identification of Contiguous Property Owners**

Where written notice is required to be submitted to owners of Contiguous Property, the applicant shall identify all owners of Contiguous Property that are not parties to the Application. The identified owners for the Contiguous Properties shall be those owners on file with the Hays Central Appraisal District (HCAD) within thirty (30) days prior to the date the Application is filed. The address of the identified owners for notice purposes shall be the address on file with the HCAD.

### **§9.08. Delivery of Written Notice**

The following requirements apply to the delivery of Written Notice, where required:

- (A) The person may deliver the written notice in person, by express courier or by depositing the notice with the United States Postal Service (USPS), postage paid. Personal delivery and delivery by express courier shall be confirmed by a written acknowledgement of receipt by the party to whom the written notice was delivered or their authorized agent. Mailed notice deposited with the USPS shall be sent certified with return receipt requested, unless otherwise required under individual chapters. Mailed notice may be confirmed by the receipt returned by the USPS. In instances where the person to receive Written Notice has requested that the person making the Written Notice submit such Written Notice via electronic media, the person making such Written Notice may deliver that notice via electronic media. All instances of Written Notice delivered via electronic media must be confirmed in writing or by receipt of an affirmative reply from the recipient via electronic media. Nothing in this section shall be construed to require the issuance of Written Notice via electronic media.
- (B) Where written notice is required to affected political subdivisions, the Applicant shall provide written notice of the proposed development to each of the affected political subdivisions prior to the submittal of the application.
- (C) Where written notice is required to owners of Contiguous Properties, the Applicant shall provide written notice of the Application to each of the owners of Contiguous Property that are not parties to the Application prior to the submittal of the application. In the event that major changes are made to the project during the course of Technical Review, the Department may, on a case by case basis, require that Contiguous Property owners be notified of the changes.
- (D) The Applicant shall provide copies of the notification and proof of notice delivery to the Department upon submittal of the application.

**§9.09. Published Notice**

Unless otherwise required under individual chapters, where published notice is required, it shall be accomplished in a newspaper of general circulation in the County at least two (2) times. For published notice of Applications, such notice shall be published within thirty (30) calendar days of filing the Application. For published notice of the consideration of action on any aspect of an Application, such notice shall be published during the period beginning on the 30th calendar day and ending on the 7th calendar day prior to such consideration. To document publication of the required notice, the person having such notice published shall submit an original, signed publisher’s affidavit demonstrating actual publication.

**§9.10. Review of Public Notice by the County**

The County may review any and all procedures used by the Applicant or others to accomplish public notice under these Regulations. The County shall require additional public notice for any public notice deemed by the County as not in compliance with these Regulations. The County may suspend the processing of any application for which the County determines that public notice was not accomplished in substantial compliance with these Regulations. The Applicant or Permittee shall be responsible for the costs of such additional public notice required as a result of failing to publish notice in substantial compliance with these Regulations.

### **§9.11. Additional Public Notice by the County**

Where these regulations require notice, the County may accomplish additional public notice of any Application or pending action on such Application using whatever means it may deem appropriate and as required by federal, state or local law. Any such costs for this additional public notice shall be the responsibility of the County. Additional public notice by the County may include, but is not limited to, posting notice on the Commissioners Court agenda, posting notice in conjunction with other posted notices at County facilities, posting on any electronic medium maintained or used by the County, or inclusion of such notice in any announcement or communication performed by the County. Except where required by law, such additional public notice by the County will be at the discretion of the Commissioners Court. The Department shall also distribute all written and published public notice required under these Regulations to those persons on the Department maintained public distribution list in accordance with Subchapter 10 of this Chapter.

### ***Sub-Chapter 10 - Public Participation***

#### **§10.01. Participation Invited**

The Commissioners Court invites and welcomes public participation in the process of reviewing and approving development applications. In administering these regulations, the Department is directed to ensure compliance with the requirements of the Americans With Disabilities Act to ensure open public access to the process. This requirement extends to activities conducted by the Department as well as to Applicant Sponsored Public Meetings.

#### **§10.02. Applicant Sponsored Public Meetings Encouraged**

The Commissioners Court encourages all Applicants for Development Authorizations to conduct Applicant sponsored public meetings for all projects or activities likely to generate significant public interest.

#### **§10.03. Applicant Sponsored Public Meetings Required**

An Applicant sponsored public meeting is required for all Applications for Development Authorizations where:

- (A) The Subject Property encompasses fifty (50) or more acres; or,
- (B) The ultimate plan for development of the Subject Property will result in fifty (50) or more dwelling units.

Applications for Development Authorizations which are intended primarily for residential development and will result in an average density of less than one dwelling unit for each five (5) acre increment of the Subject Property, are exempted from the requirement to host an Applicant Sponsored Public Meeting, provided that the Development Authorization incorporates restrictions to preclude future subdivision of the individual lots or tracts that results in an average lot size of less than five (5) acres.

#### **§10.04. Requirements for Applicant Sponsored Public Meetings**

Where Applicant sponsored public meetings are conducted, the following requirements shall apply:

- (A) Prior to conducting a public meeting, the Applicant or prospective Applicant shall prepare and file with the Department a concept plan for the proposed development.
- (B) The purpose of the public meeting is for the Applicant or prospective Applicant to present the concept plan to the public and to receive public comment upon the concept plan. The intent of the public meeting is to identify issues of concern about a proposed development that may be able to be resolved prior to submission of an Application under these Regulations. Failure to resolve issues of concern prior to filing an Application does not affect the Department’s review of the Application which shall be carried out under normal procedures as required by these Regulations regardless of the outcome of the public meeting.
- (C) The public meeting may be held at any time within ninety (90) calendar days in advance of filing of the Application. Advance notice of the public meeting shall be published in a newspaper of general circulation within the County at least once a week for two consecutive weeks, in accordance with the requirements for Published Notice in Chapter 701, Subchapter 9. The Applicant shall also provide Written Notice in accordance with Chapter 701, Subchapter 9, to consist of the text of the Published Notice of the meeting and a copy of the Concept Plan to the owners of Contiguous Property, the Commissioner(s) in whose precinct(s) the Subject Property is located, and affected political subdivisions.
- (D) A copy of the concept plan and the public notice shall be submitted along with all other Application materials required to be submitted for an Application under these Regulations.

**§10.05. Public Hearings Required**

Where required under these Regulations or otherwise under state or federal law, the County shall conduct a public hearing on an Application for a Development Authorization. An Applicant Sponsored Public Meeting held under these Regulations does not constitute a public hearing unless it is conducted in accordance with Texas State requirements for hearings by public entities.

**§10.06. Notice of Evaluation Criteria**

Where required or allowed under these regulations, written or published notices issued shall contain notice of the specific criteria from within these Regulations to be used by the Commissioners Court as the basis for evaluating whether to approve or deny an Application submitted under these regulations. This notice shall also indicate that the Commissioners Court may not consider factors other than the identified criteria in making their decision. The Department shall develop and make available to the public sample text to be used in conjunction with each of the types of Applications under these regulations which require or allow written or published notice. The Commissioners Court will accept comment on any matters related to the Application; however, certain matters may not be legally relevant to the Commissioners Court’s decision on the Application.

**§10.07. Public Access to Applications Tracking**

The Department shall maintain a list of administratively complete Applications received, Development Authorizations issued and the status of pending Applications for each calendar



month. The Department shall make a hard copy of this list available for inspection at Department offices and shall distribute a copy to the offices of the County Judge and the Commissioners. This list may be distributed electronically and may also be posted on any electronic medium maintained or used by the County.

### ***Sub-Chapter 11 - Development Authorizations***

#### **§11.01. Basis for Issuance of Development Authorizations**

Development Authorizations issued by the County shall be based on the Application materials, including any representations made in the Application and supplemental information submitted by the Application. The County may incorporate into a Development Authorization by reference any information submitted in conjunction with an Application.

#### **§11.02. Issued to Permittee**

All Development Authorizations issued by the County shall be issued to one or more Permittees. Unless a different Permittee is specifically indicated on the Application, the Development Authorization shall be issued to the Applicant as the Permittee.

#### **§11.03. Contiguous Property Under Multiple Ownership**

The County may issue Development Authorizations for Contiguous Property under single, separate ownership or under multiple ownership. If the Development Authorization is issued for Contiguous Property under multiple ownership, all development activities taking place shall be subject to a common plan of development with common authority and common responsibility.

#### **§11.04. Special Provisions**

The County may incorporate reasonable special provisions into any Development Authorization to ensure compliance with these Regulations and protection of public health, safety, welfare and the environment. Such special provisions shall be based on any of the requirements of these Regulations or on the County's established legal authority.

#### **§11.05. Form of Development Authorization**

All Development Authorizations issued by the County shall include:

- (A) The legal name of the Permittee and the Applicant;
- (B) Location and description information for the Subject Property;
- (C) The reference identifier issued by the Department for the Application;
- (D) The specific activities, features, and components authorized under the Development Authorization, including any representations, covenants, restrictions or agreements included in the Application, and any Special Provisions incorporated by the County;
- (E) Special provisions incorporated by the County, including any notification and enforcement provisions;
- (F) General Provisions incorporated into all Development Authorizations;
- (G) Expiration provisions, if any; and,
- (H) Notices of other regulatory programs that may affect the Development Authorization.

**§11.06. Effective Dates and Expiration**

Development Authorizations shall identify the date on which they are effective. In the absence of an identified effective date, the effective date shall be the date on which the Development Authorization is issued by the County. Development Authorizations issued by the County may be subject to expiration as outlined in the individual Chapter(s) under which said Development Authorizations are issued. Expired Development Authorizations are null and void and require a new Application, including application fees.

**§11.07. Dedication to the Public**

Where dedication to the public is required under these regulations, such dedication shall be made through appropriate legal instruments. Such dedication shall be made to the public with the County as custodian of all titles, privileges and other legal rights conveyed through such dedication. In the case of easements dedicated to the public, the Commissioners Court may designate another Political Subdivision or private not-for-profit entity as custodian of the County’s rights under said easement. No dedication shall be effective until the record document is filed with the County Clerk in the Official County Records. Dedications to the public may be accomplished through any legal means recognized by the County, including:

- (A) Filing a written deed in the Official County Records that conveys the fee simple interest to the County in the item being dedicated;
- (B) An easement document filed in the Official County Records that conveys a perpetual right-of-way easement to the County in the item being dedicated;
- (C) Designation of rights-of-way, easements, open space, parkland, and other public dedications on a final plat, whether through indication on the plat or reference in a plat note;
- (D) Designation of rights-of-way, easements, open space, parkland, and other public dedications on a recorded conveyance instrument for the registration of an exempt subdivision in accordance with Chapter 705 of these Regulations; and,
- (E) An order issued by a court of competent jurisdiction subsequently filed in the Official County Records.

**§11.08. General Provisions Incorporated into Development Authorizations**

The Department shall incorporate the following general provisions into all Development Authorizations issued:

- (A) Responsibility of the Applicant and Permittee

By submitting the Application, the Applicant and the designated Permittee agree to be bound by the Regulations in effect at the time the Application was submitted, including any representations, covenants, restrictions or agreements included in the Application and any special provisions incorporated by the County.

- (B) Responsibility for Permitted Activities

Once the Development Authorization has been issued, the Permittee shall be responsible to the County for complying with the terms of the Development Authorization, including any representations, covenants, restrictions or agreements included in the Application and any special

provisions incorporated by the County. Failure to comply with the terms of an issued Development Authorization may subject the Permittee to enforcement.

(C) Compliance with Other Federal, State and Local Laws and Regulations

Once the Development Authorization has been issued, the Permittee shall be responsible for complying with the terms of other applicable federal, state and local laws and regulations applicable to the authorized activities, and any approved management plans implemented by local governments in the County based on such federal, state or local laws and regulations.

(D) Responsibility for Improvements

Once approved and constructed, the Permittee holds title to and is responsible for all improvements associated with the Development Authorization except those specifically dedicated to the public in the Application as authorized under these Regulations. The Permittee is responsible for all costs associated with the installation of said improvements, including operation, maintenance, upkeep, repair and replacement, to ensure compliance with the terms of the Development Authorization. With the Agreement of the Permittee, the County may assign responsibility for publicly dedicated improvements to the Permittee through the Development Authorization.

(E) Hold Harmless

Once approved, the Permittee, Applicant, and the Owner of the Subject Property shall hold harmless the County and its duly appointed departments, agents and employees against any action for personal injury or property damage sustained by reason of the exercise of the activities authorized in the Development Authorization.

**§11.09. Notice of Other Regulatory Programs**

To the extent that the County is aware of other applicable regulatory programs, the County may incorporate into a published Application Form or Development Authorization notices of the Permittee's responsibility to comply with such other regulatory programs. The County may require additional information to be submitted either in conjunction with the Application or following the issuance of a Development Authorization to document compliance with these other regulatory programs. Any obligation to submit additional information following the issuance of a Development Authorization must be included as a special provision in such Development Authorization.

**§11.10. Notice of Issuance of Development Authorization**

When issuing a Development Authorization for which the Applicant and/or the owner of the Subject Property is not the Permittee, the Department shall forward copies of the Development Authorization to the Permittee. The Department shall also forward copies of the Development Authorization to any public entity with overlapping jurisdiction on the Subject Property that has requested notice and to any person requesting to be on the Department's public notice distribution list.

### ***Sub-Chapter 12 - Filing Record Documents with the County Clerk***

#### **§12.01. Requirement to File**

Where required by one or more individual Chapters of these Regulations, the Applicant shall file copies of the required record documents with the County Clerk for inclusion in the Official County Records.

#### **§12.02. Submission of Record Documents to the Department**

Following issuance of a Development Authorization which requires filing of the record documents, the Applicant shall present such record documents to the Department for final review and delivery to the County Judge, or the County Judge's designated representative, for execution. Once these documents have been executed, the Department shall notify the Applicant that those documents are ready for filing with the County Clerk.

#### **§12.03. Filing with the County Clerk**

Final record documents that are required to be filed in the Official County Records and that have been executed by the County Judge or the County Judge's designated representative may be presented to the County Clerk for filing in the County plat records, in accordance with the Texas Property Code, Chapter 12. The Applicant is solely responsible for the filing of record documents with the County Clerk, including any applicable fees. As required by the Texas Property Code, the County Clerk will not accept documents for recordation unless they have been approved by the Reviewing Authority.

### ***Sub-Chapter 13 - Enforcement and Penalties***

#### **§13.01. Inspection**

The Department may routinely inspect facilities considered to be a Regulated Land Use to assure continued compliance with these rules.

#### **§13.02. Offenses**

A person commits an offense if the person intentionally or knowingly makes or causes to be made a false material statement, representation, or certification in, or omits or causes to be omitted material information from an application, notice, record, report, plan, or other document filed or required to be maintained under these Regulations. A person commits an offense if the person knowingly or intentionally violates a requirement of these Regulations or the requirements or provisions of any appendices attached to these Regulations, or any provision of a Development Authorization issued by the County. A separate offense occurs under this Chapter on each day on which all of the elements of the offense exist. A separate offense occurs for each separate provision of the Regulations violated.

#### **§13.03. Category of Offense**

Unless otherwise stated herein, an offense under these Regulations is a Class B misdemeanor punishable by fine or imprisonment or both.

#### **§13.04. Fines and Penalties**

These Regulations hereby incorporate by reference all authority granted to the County or the County Commissioners Court by applicable penalty provisions of any and all relevant statutes

and regulations, including, but not limited to, those found in the Texas Health and Safety Code, the Texas Local Government Code, the Texas Water Code, and the regulations of any state or federal agency for whom the County is the implementing entity.

**§13.05. Enforcement of Covenants and Representations**

Development Authorizations may be issued by the County based on covenants and representations made by the Applicant. Any special provisions or restrictions incorporated into the Development Authorization are considered an integral part of such Development Authorization and are subject to all of the enforcement procedures available under these Regulations. Compliance with provisions or restrictions incorporated into Development Authorizations based on covenants and representations in the Application is generally the responsibility of the Applicant, the Permittee and other persons holding an interest in the Subject Property. All such covenants and representations (e.g. Plat notes, deed restrictions, etc.) shall reflect that the County may enforce any such special provisions or restrictions incorporated in order to qualify for a Development Authorization issued under these Regulations. The County’s enforcement of these special provisions or restrictions is limited to those that are used as the basis for issuing a Development Authorization, and shall be limited within those items to only those measures required to achieve compliance with these Regulations. Plat notes and deed restrictions may be enforced by any person who is considered to be benefited by the deed restriction, as authorized under state law. Moreover, the Commissioners Court shall have the right and authority through appropriate legal procedures to prohibit the construction or connection of utilities or issuing of permits if the covenants and representations have been violated. All requests to the County to remove or alter a special provision or restriction previously incorporated into a Development Authorization will be considered a modification subject to Section 701.15.03 and will require consideration by the Commissioners Court.

**§13.06. Stop-Work Orders by the Department**

As a part of its routine duties, the Department may issue stop-work orders for activities being conducted pursuant to a Development Authorization issued by the County, if a representative of the Department has confirmed that the activities violate or are in danger of violating a Development Authorization, a Development Agreement, these Regulations, or the requirements of other applicable entities with jurisdiction over the project that have been incorporated by reference. Orders issued by the Department under this authority may be provided verbally, but must be confirmed by Written Notice, provided to the Permittee and the Owner of the Subject Property, in accordance with the requirements of §701.9.08. Notification of stop-work orders shall be provided to the County Judge and the Commissioner(s) in whose precinct the Subject Property is located. Stop-work orders may be appealed to the Commissioners Court based on a written request of the Permittee or the Owner of the Subject Property. Violations that result in stop-work orders are subject to any enforcement action authorized under applicable law, including civil or criminal penalties or fines.

**§13.07. Enforcement Actions**

- (A) At the request of the Commissioners Court, the Hays County Criminal District Attorney’s office, or other such authorized legal representative as designated by the Commissioners Court may file an action in a court of competent jurisdiction to:

- (1) Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations;
  - (2) Seek civil or criminal penalties or fines as provided by law;
  - (3) Take all actions or seek any penalty authorized under law, including the penalties and enforcement provisions incorporated by reference from the Texas Health and Safety Code, the Texas Local Government Code, the Texas Water Code and the regulations of any state or federal agency for whom the County is the implementing entity; and,
  - (4) Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by the Commissioners Court under these Regulations.
- (B) Whenever it appears that a violation of any of these rules has occurred or is occurring, any person is entitled to bring a suit for injunctive relief against the person who committed, is committing, or is threatening to commit the violation. Such civil suits, excluding criminal prosecutions, may not be instituted by the County unless the Commissioners Court has authorized the institution of the suit.
- (C) Prosecution of a suit under these Regulations may be exercised by any court of competent jurisdiction. Venue for prosecution of a suit under these Regulations is proper in Hays County, Texas.

#### ***Sub-Chapter 14 - Conflicts of Interest***

##### **§14.01. Requirement to File**

If a member of the Commissioners Court is the Applicant, the Permittee or has a “substantial interest” (as that term is defined in TLGC Chapter 232) in any property associated with an Application for Development Authorization, that member shall file, before a vote or decision regarding the approval of the Application, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter on behalf of the County. The affidavit must be filed with the County Clerk in the Official County Records.

##### **§14.02. Failure to File Is An Offense**

A member of the Commissioners Court commits an offense if the member violates Section §701.14.01. An offense under this Section is a Class A misdemeanor.

#### ***Sub-Chapter 15 - Termination and Modification of Development Authorizations***

##### **§15.01. Transfer of Development Authorization**

The County may transfer a Development Authorization from one or more existing Permittees to one or more new Permittees. Transfers of Development Authorizations shall be processed as Modifications in accordance with §701.15.03.

##### **§15.02. Suspension, Termination or Revocation by County**

The County may suspend, terminate or revoke Development Authorization under the following conditions:

- (A) The Commissioners Court may suspend, terminate or revoke any Development Authorization which the County determines was obtained under false pretenses, including

intentionally or knowingly making or causing to be made a false material statement, representation, or certification in, or omitting or causing to be omitted material information from an Application, notice, record, report, plan, or other document, filed or required under these Regulations.

- (B) Prior to suspending, terminating, or revoking a Development Authorization, the County shall provide the Permittee with written notice, delivered in accordance with §701.9.08, that the Commissioners Court will consider the suspension, termination, or revocation of the Development Authorization. Such written notice shall be transmitted to the Permittee at least ten (10) calendar days prior to Commissioners Court consideration.
- (C) In instances where the Commissioners Court determines that any such Development Authorization obtained under false pretenses poses a significant or imminent threat to public safety, human health, or the environment, the County may suspend, terminate or revoke such Development Authorization without prior notice. In such instance, the County Judge, the County Clerk, or the County Judge’s authorized representative shall furnish written notice to the Permittee within three (3) working days of the suspension, termination or revocation.

**§15.03. Modification of Development Authorizations**

A Permittee that holds a valid Development Authorization issued by the County may petition the County to modify the terms of such Development Authorization. This petition must be submitted in writing to the Department and shall outline the specific modifications requested and shall include any supplemental information necessary for the Department to determine that the requested modification is in compliance with these Regulations. Any such modification that qualifies for an administrative approval under Subchapter 8 of this Chapter, may be issued by the Department, in accordance with the procedures outlined in Subchapter 8 of this Chapter. Petitions for modification that do not qualify for an administrative approval shall be reviewed by the Department, in accordance with the procedures outlined in §701.7.06 through §701.7.09, and shall be submitted to the Commissioners Court for Consideration.

**§15.04. Notice for Transfer or Modification of Development Authorizations**

Any transfer or modification of a development authorization shall be subject to the same public notice provisions in place for the initial application.

***Sub-Chapter 16 - Coordination with “911” Addressing System***

This subchapter shall govern the coordination required with the “911” Addressing System prior to issuance of a Development Authorization by the County.

**§16.01. Communication with County “911” Coordinator**

Prior to submitting an Application, the Applicant or the Applicant’s authorized agent is required to contact the County “911” Coordinator to confirm the suitability of the naming and designation of proposed roadways and to establish procedures for identifying the “911” addresses for the subdivision. Applications for subdivisions must confirm the suitability of the name and designations in conjunction with the Preliminary Plan.

**§16.02. Additional Coordination**

The County “911” Coordinator may require the Applicant to coordinate “911” addressing information with the Hays County Sheriff, municipal police and fire departments, emergency services districts (ESDs) and any other emergency response agencies authorized to operate in the County whose response might be requested during an emergency.

**§16.03. Approval Required**

Prior to the issuance of a Development Authorization by the County, the Applicant shall submit evidence of approval by the County “911” Coordinator for the following:

- (A) The proposed names or designations for new roadways, shared access easements or shared access driveways associated with any Application to the County for a Development Authorization. The County “911” Coordinator is hereby authorized to withhold approval of names or designations that the coordinator determines are very similar to existing names or designations or which may otherwise contribute to confusion in names or designations in a way that may hinder emergency response.
  - (1) When names or designations are allowed to change on a continuous street, street signs must be placed in a clear and unambiguous manner, so as not to hinder emergency response.
  
- (B) If “911” addresses have not previously been established for the proposed development, in conjunction with the final Development Authorization, the County shall establish a “911” address for each lot or component of the development served by a Regulated Roadway, shared access easement or shared access driveway associated with that development. If the development plan includes multiple habitable structures located on the same lot (e.g. a multi-unit residential housing unit, a Manufactured Home Rental Community, a multi-unit commercial development, etc.), a “911” address shall be established for each habitable structure. The “911” addresses shall be established by the County “911” Coordinator.



**CHAPTER 702 - RESERVED**

**CHAPTER 703 - RESERVED**

**CHAPTER 704 - RESERVED**

## **CHAPTER 705 - SUBDIVISION AND PLATTING OF PROPERTY**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern activities associated with the subdivision of property within the County, including construction of infrastructure and utilities, the construction and dedication of features to the County for maintenance and operation, and documenting and recording the requirements for these activities based on the approval of the County.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, 234, 242 and 352 and under the Texas Water Code in Chapters 26 and 35.

#### **§1.03. Approval Required Prior to Construction**

Approval of the Commissioners Court is required prior to the construction and development of a subdivision, unless excluded or exempted under State law or as exempted below.

#### **§1.04. Approval Required Prior to Furnishing Utility Service**

A utility may not provide utility services, including water, sewer, gas, and electric services to a subdivision development until the Final Plat has been approved by the Commissioners Court. Prior to furnishing utility service, the prospective utility provider shall apply for a certification from the Department stating that the Final Plat has been reviewed and approved by the Commissioners Court.

### ***Sub-Chapter 2 - General Subdivision Requirements***

#### **§2.01. General Requirements**

Any person who subdivides a tract of land shall:

- (A) Comply in all respects with these Regulations; and,
- (B) Prepare and submit to the Commissioners Court an Application for approval or registration of the proposed Subdivision in accordance with the terms and procedures set forth in this Chapter.

#### **§2.02. Subdivision Approval Process**

No Subdivision shall be approved until the Applicant has satisfied each of the following steps in the order indicated:

- (A) Approval of Preliminary Plan by the Commissioners Court;
- (B) Approval of Final Plat by the Commissioners Court; and,
- (C) Filing of Record Plat with the County Clerk, to be recorded with the County Clerk in the Official County Records.

### ***Sub-Chapter 3 - Exemptions***

#### **§3.01. Exempted Subdivisions**

The following subdivisions of property are exempted from the subdivision and platting requirements, except for the requirement to register the subdivision, as outlined below:

- (A) Exemptions allowed as defined by Texas Local Government Code §232.0015.
- (B) Subdivisions made for the purpose of financial severance to establish a security interest in any portion less than the entirety of the property, which, if the security interest were exercised would sever the property into separate ownership.

Exempted subdivisions registered with the County must provide direct access to a regulated roadway. This requirement to provide direct access shall not be construed to require formal subdivision where TLGC §232.0015 does not require formal subdivision. Further subdivisions of platted lots do not qualify for exemptions under this sub-chapter.

#### **§3.02. Registration**

- (A) All exempt subdivisions shall register the division with the County Clerk and submit the following to the Department:
  - (1) A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached thereto;
  - (2) An executed registration Application in the form promulgated by the Department which shall require the Owner to acknowledge that all Lots remain subject to the other development regulations of the County; and,
  - (3) An affidavit stating that the owner/subdivider of the land acknowledges that any change in the exemption status will require the property to be formally subdivided under this Chapter.
- (B) In addition to the items required by (A), above, a person whose subdivision is exempt from the subdivision and platting requirements of these Regulations under the Texas Local Government Code §232.0015 shall comply with the following additional requirements:
  - (1) The person shall file with the County Clerk and submit to the Department a survey or sketch (which may be on tax parcel maps or other form approved by the Department) showing the boundaries of the Lots, adjacent roads and adjacent property owners; and,
  - (2) The person shall submit to the Department an affidavit stating that the person will provide a copy of the affidavit required under 705.3.02(A)(3) to all persons to whom they transfer a subsequent interest in any portion of the subdivided property, whether through gift, sale or other means of transfer.
- (C) A person whose subdivision is exempt from the subdivision and platting requirements of these Regulations as a Financial Severance subdivision shall comply with the following additional requirements:
  - (1) The person establishing a financial severance boundary(ies) shall file with the County Clerk and submit to the Department a survey or sketch showing the location within the

property of the financial severance boundary(ies), and indicating any portion(s) of the property subject to a security interest; and,

- (2) The person establishing a financial severance boundary(ies) shall submit to the Department an affidavit stating that the person will provide a copy of the affidavit required under 705.3.02(A)(3) to all persons to whom they grant a security interest in any portion of the property.

### **§3.03. Acknowledgement of Registration**

Upon the receipt of a Registration for an Exempt Subdivision, the Department shall issue a written acknowledgement to the person filing the Registration. This written acknowledgment shall reference the acknowledgements made on the Registration form and the affidavit required under 705.3.02, and shall indicate that any changes in the exemption status will require review by the County and may require that the property to be formally subdivided under this Chapter.

## ***Sub-Chapter 4 - Application Procedures***

### **§4.01. General Requirements and Application Procedures**

Applications to the Commissioners Court for platting and subdividing property pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapter 701 of these regulations.

### **§4.02. Fees**

Fees for Applications for Subdivisions shall be based on the number of lots and shall be as established by the Commissioners Court. Application Fees may include a minimum review fee in addition to the fee per lot.

### **§4.03. Additional Application Items**

In addition to the items required to be submitted in accordance with Chapter 701, Subchapter 7, all Applications to the County for platting and subdividing property pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the Department and shall include:

- (A) the name of the proposed Subdivision;
- (B) Information on the precise location of the Subject Property to include:
  - (1) The “911” Street Address for the main entrance, if established;
  - (2) The current legal description;
  - (3) The Primary and any secondary existing public roadways which abut the Subject Property or will be used for access to the proposed development; and,
  - (4) A set of Geographic Coordinates for the main entrance to the subdivision from an existing public roadway.
- (C) The size and location of the Original Tract or, if a reference identifier has previously been assigned, the reference identifier of the Subdivision application;
- (D) A detailed description of the specific activities proposed for the Subject Property; and,

- (E) Any technical representatives or consultants responsible for preparation of the Application or Supplemental Information (e.g. professional engineers, professional geoscientists, professional land surveyors, registered sanitarians, attorneys, accountants, etc.).

#### **§4.04. Communication with Precinct Commissioner**

The Applicant or the Applicant's authorized agent may be required to contact the Commissioner(s) in whose precinct(s) the proposed Subdivision is located prior to the submission of the Application.

#### **§4.05. Supplemental Information**

In addition to the items required to be submitted with the Application in accordance with Chapter 701 and Section §705.4.03, each Application for a Preliminary Plan or a Final Plat shall include the following:

- (A) A copy of the deed or deeds documenting current ownership of the Subject Property;
- (B) Engineering, Surveying and other drawings and documents containing the specific information required for either a Preliminary Plan or a Final Plat which can be found in sub-chapters 6, 7 and 8 of this chapter;
- (C) All other documents or reports required pursuant to these Regulations and any associated bonds or letters of credit; and,
- (D) Any Subdivision proposal that is not exempt according to Chapter 705, Subchapter 3 shall be required to submit digital files for all drawings and graphics of the Subdivision, as required under Chapter 701, Subchapter 7.

#### **§4.06. Application Review Periods**

The Department review period for an application for a Preliminary Plan or Final Plat shall begin on the first working day after a completed Application is submitted and shall end on the first Wednesday following the expiration of fifteen (15) working days thereafter.

- (A) An application for a Preliminary Plan or Final Plat shall be deemed to be administratively complete for purposes of this Chapter when all of the materials required by these Regulations are delivered to the Department together with:
  - (1) For Preliminary Plans, those items required in Subchapters 5 and 6 of this Chapter, and;
  - (2) For Final Plats, those items required in Subchapters 5 and 8 of this Chapter.
- (B) Final action, including resolution of all appeals, of either a Preliminary Plan or Final Plat shall be no later than sixty (60) calendar days from the date of the administratively complete application submittal, subject to extensions as allowed by TLGC §232.0025(f).

#### **§4.07. Technical Review Procedure**

Upon receipt of a completed application, the Department shall conduct a technical review of the Application and make a recommendation to the Commissioners Court as to whether the Application is in compliance with these Regulations.

- (A) In the event the Department determines that the Application is not complete, then the Department shall provide the Applicant with written comments detailing the outstanding or deficient items.
- (B) Upon receipt of the Department's written comments, the Applicant shall submit to the Department additional information or a revision to the Application, together with a written response to each comment of the Department. The Applicant may request that the Application be forwarded to the Commissioners Court without addressing the Department's comments, in which event the Department will make its recommendation and itemize the deficient or outstanding items for the Commissioners Court.
- (C) Upon written request of the Applicant, the Director may extend the Applicant's thirty (30) day response time to provide supplemental information, but in no event for longer than sixty (60) additional calendar days.
- (D) The Department may review any supplemental materials submitted by an Applicant until the first Wednesday following the expiration of fifteen (15) working days after such supplemental materials were submitted to the Department.
- (E) In the event the Applicant fails to respond to the Department within the thirty (30) day response period (or the period as extended by agreement), the Department shall return the Application to the Applicant, without a refund of fees paid, and the Applicant will be required to re-file an original Application, with applicable fees, for further consideration of the Application.
- (F) All Applications whose technical review period expired on or before Wednesday of any week shall be posted by the Department for consideration by the Commissioners Court at the next regularly scheduled meeting of the Commissioners Court. The Department may post an Application for consideration at any time prior to the expiration of the review period if the review process has been completed.
- (G) The Department shall forward the results of its technical review and its recommendations with respect to the Application to the Commissioners Court in writing in accordance with the established schedule for posting items for the agenda of the meeting at which the Application will be considered by the Commissioners Court.

### ***Sub-Chapter 5 - General Requirements for Subdivisions***

The following information is required to be submitted for both Preliminary Plans and Final Plats:

#### **§5.01. General Information**

Preliminary Plans and Final Plats shall consist of one (1) or more drawings and supporting documents. Drawings shall be prepared at a standard scale, in accordance with the media and size standards included in Chapter 701, Subchapter 7. The drawings and supporting documents shall contain the following information:

- (A) Name of the proposed Subdivision, which shall not be the same or deceptively similar to any other subdivision within the County unless the subdivision is an extension of a pre-existing, contiguous subdivision. Applications for subdivisions which are an extension of a pre-existing, contiguous subdivision shall include a designation of the sequence order for each separate application (e.g. Phase II, Section 3, etc.);



- (B) The boundary lines and total acreage of the Original Tract, the Subject Property and the proposed Subdivision;
- (C) A note stating the total number of Lots within the proposed subdivision, the average size of Lots, and the total number of Lots within the following size categories: 10 acres or larger, larger than 5.0 acres and smaller than 10 acres, 2.00 acres or larger up to 5.00 acres, larger than 1.00 acre and smaller than 2.0 acres and smaller than 1.00 acre;
- (D) Approximate acreage and dimensions of each Lot, roadway and parkland/open space tract;
- (E) The location of any proposed parkland, squares, greenbelts, school tracts, open space or other public use facilities, the calculation of the required quantity of parkland/open space, and a notation as to whether this requirement is being satisfied through dedication, fee-in-lieu, or a combination of both;
- (F) Names of adjoining subdivisions or owners of property contiguous to the proposed Subdivision;
- (G) Geographic Coordinates shall be reflected on the drawings for the main entrance point to the proposed subdivision from an existing public roadway and for the most extreme property boundary corners of the parent tract(s) constituting the boundaries of the Subject Property in each compass direction (e.g. northernmost, southernmost, etc.). Geographic coordinates for Preliminary Plans may be reported using navigational grade precision (using navigational grade Global Positioning System [GPS] equipment). Geographic coordinates obtained using more precise methods are also acceptable for Preliminary Plans;
- (H) Name and address of the Texas licensed professional land surveyor and/or Texas licensed professional engineer preparing the Application materials;
- (I) Name and address of the Owner(s) of the Subject Property, and Applicant if not the Owner;
- (J) Area map showing the general location of the Subdivision in relation to major roads, towns, cities or topographic features;
- (K) North arrow, scale and date. The scale shall not exceed 1" = 200';
- (L) Boundary lines of any incorporated municipality and the limit of the extraterritorial jurisdiction of any municipality; and,
- (M) The location of Political Subdivision (e.g. school districts, municipal utility districts, groundwater conservation districts, emergency services districts, etc.) boundaries and/or a statement clearly indicating in which Political Subdivision(s) the Subdivision is located. In the event any Lot lies within more than one Political Subdivision then the plat shall clearly state the number of acres within the Lot that lies within each Political Subdivision.

#### **§5.02. Water, Wastewater and Utilities Information**

A proposed Subdivision shall satisfy the requirements of Chapter 715 of these Regulations and shall make provision for serving the Subdivision with other utilities:

- (A) Designation of the entity supplying electric, telephone and natural gas utilities to the development, or a statement that such utility is not available;
- (B) The location of all proposed utility easements and/or infrastructure, including water well sanitary easements, if applicable;
- (C) A Water and Wastewater Service Plan, if required by Chapter 715;
- (D) Certification that all Lots have been designed in compliance with the Hays County On-Site Sewage Facilities rules, together with all planning and evaluation materials required to determine Lot sizing under the Hays County On-Site Sewage Facilities rules and any request for a variance under the Hays County On-Site Sewage Facilities rules; and,
- (E) Any applicable separation distances from identified streams or other applicable off-site receptors in accordance with the Hays County On-Site Sewage Facilities rules.

### **§5.03. Roadway and Right-of-Way Information**

A proposed subdivision shall satisfy the requirements of Chapter 721 relating to design of roadways and shall contain a written certification from a Texas licensed Professional Engineer that the location and dimensions of roadways as set forth are in accordance with these Regulations. This information is not the sealed Construction of Roadways and Storm Water Management plans that are required after approval of Preliminary Plan. The information included with the Application shall illustrate:

- (A) Location, length and right-of-way widths of all proposed roadways and a depiction of how all proposed roadways shall connect with previously dedicated, platted or planned roadways within the vicinity of the Subdivision;
- (B) Proposed names or designations for all roadways, public access easements, and shared access driveways, and a statement indicating that the Applicant has coordinated all such names or designations with the County “911” coordinator;
- (C) Location, size and proposed use of all proposed access easements, or Shared Access Driveways, if any;
- (D) A statement indicating whether the Applicant shall seek public dedication of the roadways or designation of roadways as private roadways;
- (E) The number of feet of frontage of each Lot onto a regulated roadway;
- (F) A roadway design report prepared in accordance with Chapter 721, unless exempted pursuant to Chapter 721, Subchapter 5;
- (G) A designation of the classification of each roadway to be constructed or existing roadways abutting any Lot as determined in accordance with Chapter 721 below; and,
- (H) Proposed location of all depth gauges, at all road crossings where the 100 year frequency flow or lesser frequency storm event is anticipated to flow over the roadway surface and any proposed gates or warning devices. The Department shall evaluate and recommend to the Commissioners Court whether or not to require additional gates or warning devices at such locations.

#### **§5.04. Flood Plain and Storm Water Management Information**

A proposed Subdivision shall satisfy the requirements of Chapter 725 of these Regulations relating to Storm Water Management Standards and shall contain a written certification from a Texas licensed Professional Engineer stating that the location and approximate sizes of the storm water management structure set forth are in accordance with the Department's Storm Water Management Standards. Proposed subdivisions with five (5) or fewer lots meeting the minimum Lot size requirements are exempt from this subchapter.

The information included with the Application shall illustrate:

- (A) Elevation contours at no greater than two-foot (2') intervals, based on the North American Vertical Datum (NAVD) of 1988 [NAVD 88];
- (B) All Special Flood Hazard Areas identified by the Federal Emergency Management Agency as identified in Chapter 735, Subchapter 3;
- (C) For each Lot containing a Special Flood Hazard Area, sufficient additional contours to identify and delineate the Special Flood Hazard Area (including the 100-year floodplain and regulatory floodway, if any) and the lowest allowable finished floor elevation. If base flood elevations and lowest allowable finished floor elevations have not already been established, they shall be established by a method satisfactory to the Director;
- (D) For each subdivision containing a Special Flood Hazard Area, at least one benchmark showing the NAVD 88 elevation, as well as Geographic Coordinates, shall be established using the procedures presented in the Texas Department of Transportation (TXDOT) Survey Manual, latest edition;
- (E) A storm water management plan depicting the anticipated flow of all storm water onto and from the Subdivision and showing all major topographic features on or adjacent to the property including all water courses, special flood hazard areas, ravines, bridges and culverts;
- (F) The location and size of all proposed storm water management structures and easements, including on-site retention or detention ponds and easements and the impact of lot and roadway layouts on drainage;
- (G) All storm water management structures are to be submitted to the Department for consideration of acceptance of maintenance by the County;
- (H) General depiction of the boundary lines of the Edwards Aquifer Recharge Zone, or the Contributing Zone of the Edwards Aquifer, if affecting the property, and a statement certified by the Texas licensed professional surveyor or Texas licensed professional Engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of the Edwards Aquifer Recharge Zone or the Contributing Zone of the Edwards Aquifer;
- (I) Depiction of all streams, rivers, ponds, lakes, water courses and other surface water features or any Sensitive Features (as defined by the Texas Commission on Environmental Quality in 30 Texas Administrative Code §213.3) and a statement certified by the surveyor or engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of all such features in accordance with the terms of these Regulations; and,

- (J) A statement as to whether or not development of the proposed subdivision is subject to the TCEQ Edwards Aquifer Regulations in 30 TAC §213.

**§5.05. Lot Size Requirements**

Except where a larger minimum Lot size is required elsewhere within these Regulations, a Subdivision approved by the County shall be subject to the following minimum lot size requirements:

**Table 705.05.01 – Minimum Lot Sizes (in Acres)**

Water Supply Systems	Wastewater Service	Within EARZ	Within EACZ	All Other Areas
Surface or Rainwater Collection System	TCEQ Permitted Public System	None	None	None
Surface or Rainwater Collection System	TCEQ Permitted Private System	1.00	0.75	None
Public Groundwater System	TCEQ Permitted Public System	0.75	0.50	None
Public Groundwater System	TCEQ Permitted Private System	1.50	1.00	None
Non-Public Groundwater System	TCEQ Permitted Public System	1.00	0.75 6.00[1]	0.50 6.00[1]
Non-Public Groundwater System	TCEQ Permitted Private System	2.00	1.50 6.00[1]	1.00 6.00[1]
Private Well	OSSF	Refer to Table 10-1 in the Hays County Rules for On-Site Sewage Facilities.		
EARZ – Edwards Aquifer Recharge Zone EACZ – Edwards Aquifer Contributing Zone [1] Applicable to new subdivisions and Manufactured Home Rental Communities served by individual private wells located within the Priority Groundwater Management Area and required to demonstrate water availability under Chapter 715, except as modified under §715.3.06(D)				

**§5.06. Parkland and Open Space Requirements**

Except as exempted in §705.5.06(A), proposed Subdivisions shall make suitable provisions for Parkland and/or open space through the establishment of Parkland and/or open space within the Subdivision, by paying a fee to the County in lieu of Parkland/open space establishment, or a combination of both methods.

- (A) The following proposed Subdivisions are exempted from the requirement to make provision for Parkland and/or open space:
- (1) Subdivisions where the Subject Property is less than fifty (50) acres;
  - (2) Subdivisions that will result in fewer than fifty (50) dwelling units; or,
  - (3) Subdivisions where the average size of all Lots is greater than five (5) acres.

- (B) Each Subdivision shall make provision for Parkland and/or open space at a rate of one (1) acre per fifty (50) acres (two percent [2%]) of the Subject Property. Except as provided in Section §705.5.06(E) and (F), areas within drainage, roadway and utility easements or rights-of-way may not be considered as satisfying this requirement. Nothing in this requirement shall be construed to prohibit the placement of utilities within Parkland/open space.
- (C) Provision of Parkland and/or open space within the Subdivision shall be reflected on the Preliminary Plan and/or Final Plat. Land areas established as Parkland/open space shall have access to at least one existing or proposed public roadway. This requirement may be waived if the Department determines that such access is unnecessary for maintenance of the Parkland/open space (e.g. the established area is adjacent to an existing public park or open space area that has such access).
- (D) Land established as parkland must be suitable for active and passive recreational uses by the public. In determining whether proposed parkland is suitable, the Applicant shall demonstrate that the size, configuration, topography, surface features and subsurface features allow it to be useable for recreational activities such as children’s play areas, family picnic areas, game court areas, turf fields, swimming pools and other recreational facilities.
- (E) Land established as open space shall consist of greenbelts, riparian corridors, habitat conservation areas and similar areas which are intended to remain in their natural state. Future development of the established open space shall be prohibited in perpetuity through the means of a conservation easement or equivalent legal instrument. The easement or instrument shall be granted to the public and shall be held by the County or some other non-profit legal entity recognized by the County as custodian for the County. Such easement or instrument shall be in such form and under such conditions as are acceptable to the County.
- (F) Where Parkland/open space is acceptable to the County for public dedication, it shall be subject to the following requirements:
  - (1) Where the established Parkland/open space allocation is less than five (5) acres, the entire allocation shall constitute one (1) lot or tract.
  - (2) Where the established Parkland/open space area is greater than five (5) acres, if the Applicant elects to separate the allocation, each separate Lot or Tract shall be a minimum of three (3) acres in size, even if this requirement causes the Parkland/open space allocation to exceed the minimum requirement outlined above.
  - (3) At least twenty five percent (25%) of the required allocation shall be suitable Parkland, as outlined in Section §705.5.06(C) which is not within a floodplain or drainage easement. The remainder of the required allocation may be satisfied with either additional Parkland or through open space. Such additional Parkland/open space allocation may be located within a floodplain or drainage easement for an open channel, if the channel is to remain in its natural state.
  - (4) Parkland/open space proposed for dedication to the public shall be duly noted in the Application and on the Preliminary Plan and/or Final Plat. Parkland/open space dedicated to the public shall provide for public access in accordance with the County’s

standards for other County-owned and/or operated Parkland and open space. It shall be the responsibility of the Applicant to develop a Parkland/open space access plan to be incorporated into the Development Authorization. The Permittee shall incorporate into the development all access controls features required by the Parkland/open space access plan.

- (G) In lieu of establishing Parkland/open space within the Subdivision through dedication to the public, an Applicant may establish Parkland/open space to be privately managed. The Applicant shall develop and submit for approval a Parkland/open space management plan to be incorporated into the Development Authorization. The Permittee shall incorporate into the development all access controls features required by the Parkland/open space management plan and shall operate the Parkland/open space in accordance with this plan.
- (H) At the County's discretion, the Applicant shall pay a fee in-lieu of establishing such Parkland/open space in the Subdivision. Fees shall be payable as outlined in Chapter 701.
  - (1) The fee amount shall be established by multiplying the total Parkland/open space acreage required under this Chapter by an established value. The established value shall be determined using, at the discretion of the applicant, either the assessed tax value of all the parent Tracts for the Subject Property (on a per acre basis) or the value determined by an appraisal performed by an accredited appraiser selected by the Applicant with the approval of the County.
  - (2) Fees paid in lieu of dedicated Parkland/open space shall be expended by the County solely for acquisition, development or rehabilitation of Parkland or open space or for improvements to existing Parklands or open space. In expending monies collected in lieu of dedicated Parkland/open space, the County shall be required to spend at least fifty percent (50%) of the fees on eligible projects within the County Precinct(s) from which these fees originated.

### **§5.07. Dedication of Additional Parkland and Open Space**

The establishment of Parkland and/or open space in amounts exceeding the minimum requirements of this Subchapter shall be eligible for any economic incentives authorized under these Regulations.

## ***Sub-Chapter 6 - Preliminary Plan***

### **§6.01. General Information**

A proposed Preliminary Plan shall include all of the information required by Subchapter 5 of this Chapter.

### **§6.02. Number of Copies**

The Applicant shall submit with the Application four (4) eighteen inch (18") by twenty four inch (24") copies of the Preliminary Plan and one digital data file of the signed/sealed final drawings in accordance with the Hays County Digital Data Submittal Standards. The Department may require up to eight (8) additional hard copies of the Preliminary Plan.

### ***Sub-Chapter 7 - Approval of Preliminary Plan***

#### **§7.01. Criteria for Approval of Preliminary Plan**

The Commissioners Court shall approve a Preliminary Plan if it satisfies each of the requirements for a Preliminary Plan set forth in these Regulations.

#### **§7.02. Construction Activities**

Approval of a Preliminary Plan does not authorize any construction or Development activities, except as permitted in Chapter 731, but merely authorizes the Applicant to proceed with the preparation of a Final Plat.

#### **§7.03. No Conveyance of Lots**

Conveyance of Lots depicted on a Preliminary Plan shall not be permitted until the Final Plat has been approved and the record plat filed with the County Clerk.

#### **§7.04. Expiration**

In accordance with Section 245.005 of the Local Government Code, approval of a Preliminary Plan shall expire and be of no further force and effect in the event a Final Plat for a portion of the Subdivision is not filed within twelve (12) months following the date of the Commissioners Court approval of the Preliminary Plan or in the event that no progress has been made towards completion of the project within the project activity period. For purposes of this section, the term “project activity period” means the later of:

- (A) Two (2) years from the date of approval of the Preliminary Plan; or,
- (B) Five (5) years from the date the first permit application was filed for the project.

### ***Sub-Chapter 8 - Final Plat***

A proposed Final Plat shall comply with the requirements of the approved Preliminary Plan and shall include the following additional information:

#### **§8.01. General Information**

- (A) Bearings and dimensions of the boundary of the Subdivision and all Lots, parks, greenbelts, easements or reserves. Dimensions shall be shown to the nearest one-hundredth of a foot (0.01') and bearings shall be shown to the nearest one second of angle (01"). The length of the radius and arc of all curves, with bearings and distances of all chords, shall be clearly indicated
- (B) Description of monumentation used to mark all boundary, Lot and block corners, and all points of curvature and tangency on street rights-of-way, in accordance with the regulations of the Texas Board of Land Surveying;
- (C) The Subdivision shall be located with respect to an original corner of the original survey of which it is part, in accordance with the regulations of the Texas Board of Land Surveying;
- (D) Lot and block numbers for each Lot;
- (E) Acreage of all Lots, calculated to the nearest one-hundredth (0.01) of an acre;

- (F) The building setback lines from Regulated Roadways identified in Chapter 721;
- (G) Geographic Coordinates, reported to resource-grade precision (sub-meter accuracy as defined by the U.S. Bureau of Land Management), shall be reflected on the drawings for the main entrance point to the Subdivision from an existing public roadway and for the most extreme property boundary corner in each compass direction (e.g. northernmost, southernmost, etc.);
- (H) The Geographic Coordinates, reported to resource-grade precision (sub-meter accuracy as defined by the U.S. Bureau of Land Management), shall be reflected electronically in the digital data submission for:
  - (1) All points for which Geographic Coordinates are reflected on the printed drawing, along with;
  - (2) Each corner, inflection point, or point of curve for the property boundary of the Subdivision; and,
  - (3) Each corner, inflection point, or point of curve for the centerline of all regulated roadways and shared access driveways; and,
- (I) Any impervious cover calculations required to document compliance with a development agreement or any other applicable federal, state or local regulation.

**§8.02. Flood Plain and Drainage Information**

- (A) For Subdivisions containing Special Flood Hazard Areas, multiple benchmarks shall be provided and recommended finished floor elevations established for each Lot in accordance with Chapter 735.
- (B) For each Subdivision containing a Special Flood Hazard Area, at least one monument containing latitude and longitude and NAVD 88 datum elevation.

**§8.03. Roadway and Right-of-Way Information**

- (A) Total length of all roadways, to the nearest one-tenth (0.1) mile, and a declaration as to which category of roadway will be constructed, as described in Chapter 721.
- (B) Total area of all rights-of-way proposed for dedication.
- (C) The approved names or designations for all roadways, public access easements, and shared access driveways.
- (D) Construction plans, specifications and cost estimates, prepared by a Texas licensed professional engineer, and financial assurance documentation, if required, in accordance with Chapter 721.
- (E) A set of Geographic Coordinates for each intersection, change in direction, or point of curve for the centerline of all regulated roadways and shared access driveways for the purpose of establishing “911” Street addresses within the Subdivision.
- (F) The following statement shall appear prominently on the Final Plat: "No driveway constructed on any Lot within this subdivision shall be permitted access onto a public roadway unless:



- (1) a Permit for use of the County Roadway Right-Of-Way has been issued under Chapter 751; and,
  - (2) the driveway satisfies the minimum spacing requirement for driveways set forth in Chapter 721.”
- (G) Where required, the minimum driveway culvert size for each lot.

#### **§8.04. Water, Wastewater and Utilities Information**

- (A) The following statement shall appear prominently on the Final Plat: "No structure in this subdivision shall be occupied until connected to an individual water supply or state-approved community water system. Due to declining water supply, prospective property owners are cautioned by Hays County to question the seller concerning ground water availability. Rain water collection is encouraged and in some areas may offer the best renewable water resource."
- (B) The following statement shall appear prominently on the Final Plat: "No structure in this subdivision shall be occupied until connected to a permitted sewer system or to an on-site wastewater system that has been approved and permitted by Hays County."
- (C) Applicants that submit a Water and Wastewater Service Plan under Chapter 715, one of the following statements, utilizing the words “water”, “wastewater” or both, as required, shall appear prominently on the Final Plat:
- (1) “The filer of this plat has submitted to the Department a Water and Wastewater Service Plan describing how [water] [and] [wastewater] service will be provided to this subdivision.”; or,
  - (2) “The filer of this plat has submitted to the Department a Water and Wastewater Service Plan describing how [water] [and] [wastewater] service will be provided to this subdivision, but under Department Regulations, this subdivision is exempt from the requirements to demonstrate the availability of [water] or [wastewater] service.”
- (D) For Subdivision plat(s) applicants exempt from submitting a Water and Wastewater Service Plan under Chapter 715, the following statements shall appear prominently on the Final Plat: “Under Department Regulations, this subdivision is exempt from the requirements to demonstrate the availability of water and wastewater service.”

#### **§8.05. Other Plat Notes and Certifications**

- (A) The following statement shall appear prominently on the plat: "No construction or development within the subdivision may begin until all Hays County Development Authorization requirements have been satisfied."
- (B) Plats shall contain the notes and certifications required by the Hays County Plat Note and Certification Standards, as applicable.

#### **§8.06. Number of Copies**

The Applicant shall submit with the Application six (6) eighteen inch (18") by twenty four inch (24") copies of the Final Plat and one digital data file of the signed/sealed final drawings in accordance with the Hays County Digital Data Submittal Standards. The Department may require up to fourteen (14) additional copies of the Final Plat.

### ***Sub-Chapter 9 - Approval of Final Plat***

#### **§9.01. Criteria for Approval of Final Plat**

The Commissioners Court shall approve a Final Plat if it satisfies each of the Requirements for a Final Plat set forth in these Regulations.

#### **§9.02. Approval of a Final Plat**

Approval of a Final Plat shall not authorize any construction or Development activities, except as permitted under Chapter 731, but merely authorizes the Applicant to proceed with preparation of a Record Plat.

#### **§9.03. Expiration**

- (A) Approval of a Final Plat shall expire and be of no further force and effect in the event that:
- (1) A Record Plat, as required by these Regulations, is not actually filed with the County Judge's office for signature within twelve (12) months of the approval of the Final Plat; or,
  - (2) No progress has been made towards completion of the project within the project activity period. For purposes of this section, the term "project activity period" means the later of:
    - (a) Two (2) years from the date of approval of the Final Plat; or,
    - (b) Five (5) years from the date the first permit application was filed for the project; or,
  - (3) No portion of the land subdivided under a plat approved under this Chapter is sold or transferred before January 1 of the 51st year after the year in which the plat was approved.
- (B) The intent of establishing an expiration period for a Final Plat under this Section is to allow the County to enforce future minimum size, configuration and arrangement standards on lots within the expired Subdivision and is not intended to deprive the public of any use of dedicated public features within the expired Subdivision. Publicly dedicated features included in any Final Plat that expires under this Section shall remain subject to control by the County, including the ability to require a configuration on any subsequent plat for the affected property that accommodates at least the footprint of the public features included in the expired plat.

### ***Sub-Chapter 10 - Record Plat***

#### **§10.01. Submission of Record Plat to the Department**

Following approval of the Final Plat, the Applicant shall present a Record Plat to the Department for final approval and delivery to the County Judge for execution, in accordance with Chapter 701, Subchapter 12. The Record Plat shall contain, or be submitted with, the following:

- (A) All items required in Subchapters 5 and 8 above; and,
- (B) Original signatures and original seals for licensed or registered professionals.

**§10.02. Filing with the County Clerk**

Final Plats that have been executed by the County Judge or the County Judge’s designated representative may be presented to the County Clerk for filing in the County plat records, in accordance with Chapter 701, Subchapter 12.

**§10.03. Record Plat**

One (1) eighteen inch by twenty four inch (18" x 24") signed paper plat shall be presented to the County Clerk for recording as the Record Plat. All writing and drawings on the Record Plat must be large enough to be easily legible following recording.

***Sub-Chapter 11 - Plat Revisions***

This sub-chapter outlines the requirements and processes for plat cancellations, plat vacations, replats, and amended plats as authorized under Texas Local Government Code Sections 232.008, 232.009, and 232.0095.

**§11.01. Cancellation**

Any Application to cancel an existing plat or any portion of an existing plat of a subdivision located outside of the extra-territorial jurisdiction of any municipality shall be submitted and considered in accordance with Texas Local Government Code Section §232.008, which establishes, among other things:

- (A) The Application shall be granted if it is shown that the cancellation of all or a part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation;
- (B) Notice of the Application must be published in English in the County for at least three weeks before action is taken on the application;
- (C) Upon Application of the owners of 75 percent of the property included in the subdivision, phase or identifiable part, the Commissioners Court shall authorize the cancellation upon notice and hearing as required under Texas Local Government Code Section §232.008, provided that if the owners of at least 10 percent of the property affected file written objections with the Commissioners Court, the grant of an order of cancellation is at the discretion of the Commissioners Court; and,
- (D) Establishing a certain private action for damages against the Applicant for persons who protest unsuccessfully against a cancellation application. In the event of any conflict or inconsistency between the summary set forth above and the actual terms of Texas Local Government Code §232.008, as amended, the terms of the Texas Local Government Code shall control in all respects.

**§11.02. Plat Vacation**

Any application to vacate an existing plat or any portion of an existing plat of a subdivision located within the extra-territorial jurisdiction of any municipality shall be submitted and considered in accordance with Texas Local Government Code Section 212.013.

**§11.03. Replats**

The Owner of an existing Lot or Lots in a platted Subdivision may submit an application to replat such Lots, unless prohibited by plat notes filed pursuant to these Regulations, by submitting the following to the Department:

- (A) The general information required by Chapter 701, Subchapter 12 and Subchapter 4 of this Chapter;
- (B) A copy of all existing recorded plats affected by the proposed revision;
- (C) Six (6) eighteen inch (18”) by twenty four inch (24”) hard copies of the proposed revised plat, conforming in all respects to the requirements of these Regulations;
- (D) A statement giving the reason for the proposed revision;
- (E) A filing fee as established by the Commissioners Court.

**§11.04. Amended Plats**

- (A) An application to amend any portion of an existing subdivision plat shall be submitted and considered in accordance with Texas Local Government Code Section 212.016. The following shall be submitted with the application to amend the plat:
  - (1) The general information required by Chapter 701, Subchapter 12 and Subchapter 4 of this Chapter;
  - (2) A copy of all existing recorded plats affected by the proposed revision;
  - (3) Six (6) eighteen inch (18”) by twenty four inch (24”) hard copies of the proposed amended plat, conforming in all respects to the requirements of these Regulations;
  - (4) A statement giving the reason for the proposed revision;
  - (5) A filing fee as established by the Commissioners Court;
- (B) Applications for plat amendments are exempt from written, published, and posted notice requirements.
- (C) An amended plat may not be utilized to create new lots unless those parcels have been taxed independently for ten (10) or more years.

**§11.05. Criteria for Approval**

The Commissioners Court may approve an application to revise a Subdivision upon a finding that:

- (A) The revision will not interfere with the established rights of any owner of a part of the subdivided land; or each owner whose rights may be interfered with has agreed to and signed the revised plat; and
- (B) The plat as revised conforms to the requirements of the Regulations.

## ***Sub-Chapter 12 - Public Notice***

### **§12.01. Applicant Sponsored Public Meeting**

As required under Chapter 701, Subchapter 10, for those Applications where the Subject Property encompasses fifty (50) or more acres; or the ultimate plan for development of the Subject Property will result in fifty (50) or more individual dwelling units, the Applicant is required to conduct a public meeting. Applicants for all other types of Applications are also encouraged to conduct public meetings. When public meetings are held in conjunction with Applications filed under these Regulations, the public meeting shall be conducted in accordance with Chapter 701, Subchapter 10.

### **§12.02. Notice Required**

Except as exempted under §705.11.04, all Applications seeking approval from the County for a Preliminary Plan or Final Plat shall be required to notify the public using posted notice, written notice, and published notice. For Applications where the Final Plat is submitted prior to the expiration of the Preliminary Plan in accordance with §705.7.04, the notices issued for the Preliminary Plan shall satisfy the notice requirements for the Final Plat. On a case by case basis the Department may request that the Commissioners Court wave notice requirements for Subdivisions of six (6) Lots or less with existing water and wastewater service.

### **§12.03. Posted Notice**

The Applicant shall be required to notify the public upon submission of an Application under this Chapter, including Applications for new Subdivisions and Applications for revision of an existing Subdivision plat, in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:

#### NOTICE OF APPLICATION TO SUBDIVIDE

The signs shall contain the following notice text:

An application has been filed with HAYS COUNTY to subdivide this property.  
Information regarding the application may be obtained from:

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.

### **§12.04. Written Notice for New Subdivisions**

The Applicant shall be required to notify affected political Subdivisions and owners of Contiguous Property prior to submission of an Application under this Chapter in accordance with the requirements for Written Notice in §701.9.05. In addition to the items required under §701.9.05, the written notice must include, at the minimum, the following information:

- (A) The total area of the proposed Subdivision and the number of platted Lots included in the Subject Property;
- (B) The anticipated timetable for build-out of the Subdivision and any anticipated subsequent phases of development, including an estimated population for each phase and at full build-out; and,

- (C) A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.

**§12.05. Published Notice for New Subdivisions**

Upon submittal of an application for a New Subdivision the applicant shall publish notice in a newspaper of general circulation in the county for two (2) consecutive weeks. To document publication of the required notice, the person having such notice published shall submit an original, signed publisher’s affidavit demonstrating actual publication.

**§12.06. Written Notice for Revised Plats**

Except as noted below, an Application for revision of an existing Subdivision plat shall be required to notify all owners of contiguous properties within the original Subdivision by certified mail. In addition to the items required under §701.9.05, the written notice must include, at the minimum, the following information:

- (A) For Replat Applications a detailed description of the proposed revision to the plat.
- (B) For Applications involving cancellation or vacation of an existing Subdivision plat, a statement that an Application has been filed requesting that the County cancel and vacate the plat and any associated Development Authorizations.

**§12.07. Published Notice for Revised Plats**

After the date the Department posts the Revision, Cancellation, or Vacation of an existing Subdivision plat for consideration by the Commissioners Court, but before the application is considered by the Court, the Applicant shall have published all notices required by Texas Local Government Code Sections §232.008, 212.013, 212.014 and 212.015, including a notarized publisher’s affidavit demonstrating publication of the application in a newspaper of general circulation in the area affected by the resubdivision, including a statement of the time and place at which the Commissioners Court will meet to consider the application and hear protests, if any. The Published Notice shall be completed in accordance with the requirements for Published Notice in Chapter 701.

**CHAPTER 706 - RESERVED**

**CHAPTER 707 - RESERVED**



**CHAPTER 708 - RESERVED**

**CHAPTER 709 - RESERVED**

**CHAPTER 710 - RESERVED**

## **CHAPTER 711 - SITE DEVELOPMENT REVIEW AND DEVELOPMENT AUTHORIZATIONS**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern the issuance of various types of development reviews and Development Authorizations based on other Chapters within these regulations. Development Authorizations and permits governed under this Chapter shall include:

- (A) Flood Hazard Area permits;
- (B) On-Site Sewage Facility (OSSF) permits;
- (C) Manufactured Home Rental Community permits;
- (D) Use of County Properties or Facilities permits;
- (E) Regulated Land Use/Location Restriction permits.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 232, 233 and 234.

#### **§1.03. Site Development Review Allowed**

All persons or activities which are or may reasonably be subject to these Regulations may submit an Application to the Department requesting a site development review. This review shall be conducted in accordance with Subchapter 2.

#### **§1.04. Permit Required**

Except as authorized below, approval of the County of a permit or other Development Authorization is required prior to conducting any of the development activities outlined in these Regulations, unless excluded or exempted under State or Federal law.

#### **§1.05. Approval Required Prior to Construction**

Approval of the County is required prior to the commencement of activities authorized under a Development Authorization, including any associated construction. These regulations apply only to activities which commenced on or after the effective date of these Regulations.

### ***Sub-Chapter 2 - Site Development Review Applications***

#### **§2.01. General Requirements and Application Procedures**

Applications to the Department for site development review are subject to the general requirements and Application procedures set forth in Chapter 701 of these Regulations.

#### **§2.02. Additional Application Information**

In addition to the items required to be submitted in accordance with Chapter 701, Subchapter 7, all Applications to the Department for site development review, including amendments or supplemental materials, shall be delivered to the Department and shall include:

- (A) Information suitable to allow the precise location of the Subject Property to be determined. Types of information submitted for the Subject Property may include:
  - (1) The “911” Street Address;
  - (2) Geographic Coordinates;
  - (3) Current Legal Description; or,
  - (4) The Primary and Secondary Access/Frontage Roadways.
- (B) A detailed description of the specific activities proposed for the Subject Property.
- (C) A site sketch or other information in sufficient detail to describe the location within the Subject Property of the proposed activities, including the location of specific improvements to be constructed.

### **§2.03. Site Development Review By the Department**

The Department shall review each site development review Application submitted and issue a written determination to the Applicant as to whether the Department believes the specific site development activities proposed require a Development Authorization. Written determinations issued by the Department shall conform to the following:

- (A) Where the Department determines a Development Authorization from the County is not required, the written notice issued by the Department shall indicate that the activity may proceed without objection by the County.
- (B) Where the Department determines that a Development Authorization is required, the written determination shall:
  - (1) Identify the specific type of Development Authorization that the Department believes is required;
  - (2) Reference the specific section(s) of these Regulations which require the Development Authorization; and,
  - (3) Reference the Department’s application forms and any supplemental instructions or guidance documents applicable to the type of Development Authorization required.
- (C) Where the Department’s review determines that a specific activity or component of a proposed activity is prohibited under the Regulations, the written determination shall:
  - (1) Identify the prohibited activity and indicate why it is prohibited;
  - (2) Reference the specific section(s) of these Regulations and the legal authority by which the activity is prohibited; and,
  - (3) State that proceeding with the prohibited activity would be a violation of these Regulations that may subject the Applicant and/or the Property Owner to enforcement by the County.

### ***Sub-Chapter 3 - Permits and Development Authorizations In General***

#### **§3.01. Basis for Issuance**

The Department shall issue permits or other Development Authorizations for regulated activities to Applicants under one of the following conditions:

- (A) The Commissioners Court has approved a permit or other Development Authorization for an Application submitted under these regulations; or,
- (B) The Commissioners Court has delegated authority to the Department to approve an Application based on established criteria, provided that the Department shall:
  - (1) Document that the Application met the established criteria; and,
  - (2) Provide written notification to the Commissioners Court that such Application was approved by the Department under authority delegated by the Commissioners Court, and that a permit or other Development Authorization was issued based on that approval.

#### **§3.02. Types of Development Authorizations**

Subject to approval of the Application, under §711.3.01, and under the authority of this Chapter and other applicable Chapters, the Department may issue the following types of Development Authorizations:

- (A) “Flood Hazard Area Permit” in accordance with Chapter 735;
- (B) “On-Site Sewage Facility” (OSSF) permit in accordance with the Hays County On-Site Sewage Facilities rules;
- (C) “Manufactured Home Rental Community” permit in accordance with Chapter 745;
- (D) “Use of County Properties or Facilities” permit in accordance with Chapter 751;
- (E) “Regulated Land Use/Location Restriction” permits in accordance with Chapter 755 or other portions of these Regulations where variances may be approved by the County to otherwise applicable land use or locations restrictions; or,
- (F) “Combined Development Authorization”, to authorize any combination of the various types of Development Authorizations identified in (A)-(E) above.

### ***Sub-Chapter 4 - General Application Procedures***

#### **§4.01. General Requirements and Application Procedures**

Applications to the Department for approval of any of the various Development Authorizations pursuant to this Chapter are subject to the general requirements and Application procedures set forth in Chapter 701 of these Regulations.

#### **§4.02. Additional Application Information**

In addition to the items required to be submitted in accordance with Chapter 701, Subchapter 7, all Applications to the Department for Development Authorizations in accordance with this Chapter, including amendments or supplemental materials, shall be delivered to the Department and shall include:

- (A) Identification of the Permittee who agrees to be bound by the terms of the development authorization, if issued, including any special provisions incorporated by the Commissioners Court. Unless designated separately on the Application, Development Authorizations will be issued with the Applicant as the Permittee.
- (B) Information on the precise location of the Subject Property to include (for Subdivision Applications only):
  - (1) The “911” Street Address, if established;
  - (2) Geographic Coordinates for the main entrance to the Subject Property off of a public roadway and one additional location near the geographic center of the Subject Property;
  - (3) The current legal description and deeds for the Subject Property; and,
  - (4) The Primary and any secondary existing public roadways which abut the Subject Property or will be used for access to the proposed development.
- (C) A detailed description of the specific activities proposed for the Subject Property.
- (D) The size and location of the Subject Property or, if a reference identifier has previously been assigned, the reference identifier of the Subdivision application.
- (E) Any technical representatives or consultants responsible for preparation of the Application or Supplemental Information (e.g. professional engineers, professional geoscientists, professional land surveyors, registered sanitarians, attorneys, accountants, etc.)

#### **§4.03. Supplemental Information**

In addition to the items required to be submitted with the Application in accordance with Chapter 701 and Section §711.4.02, each Application shall be supplemented with the following information:

- (A) Property location map(s), which utilizes at least one of the following base maps:
  - (1) A topographic map as published by the U.S. Geological Survey (USGS), or an equivalent map from another source, indicating the location of the Subject Property (for Subdivision Applications only);
  - (2) A map from any source that accurately depicts the location of the Subject Property which provides sufficient detail to allow County staff to easily find the property in order to conduct necessary inspections.
- (B) A site drawing in sufficient detail to describe the location within the property of the proposed activities, including the location of specific improvements to be constructed.
- (C) Existing and proposed public and private roadways, including those designated for general egress/ingress and those designated for emergency access to the proposed development.
- (D) An erosion and sedimentation control plan prepared in accordance with the Hays County Erosion Controls Manual or the Storm Water Pollution Prevention Plan developed in accordance with the TCEQ Construction Site Storm Water Permitting Program.

***Sub-Chapter 5 - Contents of Permits***

**§5.01. General Information**

Permits or other Development Authorizations for site development activities issued by the Department shall contain the general information required for Development Authorizations outlined in Chapter 701, Subchapter 11.

**§5.02. Expiration**

The Development Authorization documentation shall identify its expiration date. Expired permits are null and void and require a new Application, including application fees. Unless otherwise specified in these Regulations or required by applicable state or federal requirements, in accordance with Section 245.005 of the Local Government Code, approval of a permit or Development Authorization shall expire and be of no further force and effect in the event that no progress has been made towards completion of the project within the project activity period. For purposes of this section, the term “project activity period” means the later of:

- (A) Two (2) years from the date of issuance of the permit or Development Authorization; or,
- (B) Five (5) years from the date the first permit application was filed for the project.



**CHAPTER 712 - RESERVED**

**CHAPTER 713 - RESERVED**

**CHAPTER 714 - RESERVED**

## **CHAPTER 715 - WATER AND WASTEWATER AVAILABILITY**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern demonstrations of water and wastewater availability required in conjunction with the approval of subdivision plats and the issuance of permits for Manufactured Home Rental Communities, unless excluded or exempted under State law or as exempted in these Regulations.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 232, 233 and 234, and under Texas Water Code Chapter 35.

#### **§1.03. Approval Required**

In accordance with TLGC Chapter 232, approval of the County is required prior to a utility furnishing water or wastewater service to subdivisions and Manufactured Home Rental Communities under the jurisdiction of these regulations. Prior to furnishing utility service, the prospective utility provider shall apply for a certification from the Department stating that the applicable Development Authorization has been issued by the County.

#### **§1.04. Water System Classifications and Requirements**

Under authority granted to the County under the Texas Water Code and the Texas Local Government Code, the Commissioners Court established classifications for water supply sources recognized under these Regulations to implement the minimum lot size requirements in Chapters 705 and 744 the Hays County On-Site Sewage Facilities rules. Specific definitions for these classifications are provided in Subchapter 3 of Chapter 701.

##### **(A) Local Groundwater System**

A Local Groundwater Supply System is any water supply system that obtains greater than one-third of its overall supply from Local Groundwater. Applicants that plan to serve any phase of a development with a Local Groundwater Supply System must comply with the minimum lot size and other requirements contained in these Regulations for Local Groundwater Supply Systems, except as outlined in §715.1.04(B). As outlined in the remainder of this Chapter, water supply systems that use Local Groundwater must comply with the requirements stipulated in this Chapter for the use of that Local Groundwater in any quantity. For implementation purposes, this classification of water supply systems is further subdivided into Public Local Groundwater Supply Systems and Non-Public Groundwater Supply Systems. Public Local Groundwater Supply Systems are those owned and/or operated by a governmental entity recognized under the Texas Local Government Code or any system designated a Public Water System by the Texas Commission on Environmental Quality. Non-Public Local Groundwater Supply Systems are any Local Groundwater Supply System that does not qualify as a Public Local Groundwater Supply System, including, but not limited to individual water supply wells.

##### **(B) Other Water Supply Systems**

Systems which are not Local Groundwater Supply Systems are considered Other Water Supply Systems. Other Water Supply Systems obtain more than two-thirds of their total supply from

any combination of surface water, rainwater harvesting and groundwater that is not Local Groundwater. The Commissioners Court will consider on a case by case basis requests to re-classify certain Local Groundwater Supply Systems as an Other Water Supply System for the purposes of serving a specific development. Local Groundwater Supply Systems that obtain greater than one-third, but less than one-half, of their the total supply from Local Groundwater may request this re-classification from the Commissioners Court for the purposes of serving a specific development.

Applicants wishing to request re-classification of a specific system shall submit, within ten (10) working days of making an Application for a Development Authorization, a letter to the Department requesting that the re-classification be considered by the Commissioners Court. If the request for re-classification is approved by the Commissioners Court, the Applicant and/or the Permittee will be required to enter into a Development Agreement with the County pursuant to Chapter 771 of these Regulations. The initial request letter shall include contact information for all parties who will be included in drafting the Development Agreement with the County. Within ten (10) working days of receipt of this request, a County representative will contact the Applicant or his designated representative regarding the proposed Development Agreement. A development agreement shall be drafted within thirty (30) working days, unless all parties involved agree on an extended timeline.

Applicants who plan to serve all phases of a development with an Other Water Supply System may utilize the minimum lot size and other requirements contained in these Regulations for Other Water Supply Systems.

### **§1.05. Compliance with Regulations Constitutes No Warranty by County**

While these rules are intended to preserve and protect the water resources of Hays County, the Commissioners Court of Hays County does not make any warranty - express, implied or otherwise - that developments that comply with these rules will be able to meet the water or wastewater needs of those whom the development serves.

## ***Sub-Chapter 2 - Administrative Procedures***

### **§2.01. Water and Wastewater Service Plan Required**

An Applicant for a Development Authorization shall prepare a Water and Wastewater Service Plan demonstrating the availability of both water and wastewater service to the proposed development. This plan will be required to demonstrate the availability of either water or wastewater service in the event that a demonstration of availability of the other service is exempted.

### **§2.02. Preparation of Water and Wastewater Service Plan**

The Water and Wastewater Service Plan shall be prepared by qualified personnel holding the proper credentials to perform their services in the State of Texas. The report shall be prepared under the direction of and sealed by a Texas licensed professional engineer, with the following exceptions:

- (A) For developments for which either water or wastewater availability or both is being demonstrated using only an existing TCEQ permitted system, the Applicant may include availability statements in accordance with Subchapters 3 and/or 4 of this Chapter, provided that the Water and Wastewater Service Plan indicates that facilities providing

service from the TCEQ permitted system shall be designed by a Texas licensed professional engineer;

- (B) For developments for which water availability is being demonstrated using only individual private water wells, the Applicant may include a water availability statement in accordance with Subchapter 3 of this Chapter prepared by a Texas licensed professional geoscientist or professional engineer; or,
- (C) For developments for which wastewater availability is being demonstrated using only On-site Sewage Facilities subject to permitting by the County under the Hays County On-Site Sewage Facilities rules, the Applicant may include a wastewater availability statement in accordance with §715.4.05.

### **§2.03. Contents of Water and Wastewater Service Plan**

The Water and Wastewater Service Plan shall describe how the proposed development will be provided with both water and wastewater service. The Water and Wastewater Service Plan shall, at a minimum, contain the following information:

- (A) A description of how water and wastewater service will be provided to serve all portions of the development (e.g. platted lots or rental units);
- (B) Identification of all water and wastewater facilities associated with the proposed development;
- (C) Identification of all water and wastewater facilities to be placed in County rights-of-way;
- (D) For phased developments, the description must address all water and wastewater facilities proposed to be utilized throughout full build-out of the development;
- (E) For developments where the availability of either water or wastewater has been based upon demand or use restrictions or limitations, the Applicant shall include in the Water and Wastewater Service Plan the procedures to implement demand or use restrictions so there is reasonable assurance that demand or use will not be allowed to exceed the demonstrated availability. These provisions shall include procedures to notify the end user of the restrictions/limitations and that the County has been granted the right to enforce such restrictions/limitations;
- (F) For service methods that require any operating and/or maintenance components for any system other than a TCEQ permitted system, written operations procedures shall be included in the Water and Wastewater Service Plan;
- (G) For developments that are regulated by the Edwards Aquifer Authority or the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules are met; and,
- (H) For developments within the jurisdiction of a Groundwater Conservation District, a statement acknowledging that all applicable requirements of the GCD will be met.

### **§2.04. Availability Demonstrations Using Multiple Methods**

The Water and Wastewater Service Plan may demonstrate availability using multiple methods, subject to the following conditions:

- (A) The anticipated percentage of the service need to be satisfied by each method and the conditions under which each method is to be utilized shall be clearly identified;
- (B) Any procedures for switching between service methods shall be clearly identified; and,
- (C) Potential conflicts between service methods shall be clearly identified.

### ***Sub-Chapter 3 - Water Availability***

#### **§3.01. Applicability**

The following developments are exempted from the requirements to certify water availability under these Regulations. The County encourages exempted developments to comply with these Regulations.

- (A) Exempted subdivisions as defined under §701.3.01.
- (B) Exempted Manufactured Home Rental Communities as defined under §745.2.01.
- (C) The following categories of non-exempt subdivisions are not required to demonstrate water availability, subject to the inclusion of a plat note prohibiting further non-exempt subdivision or re-subdivision for a period of five (5) years following the filing of the Final Plat:
  - (1) All non-exempt subdivisions of five (5) lots or less in which all lots average at least two (2) acres.
  - (2) All subdivisions of ten (10) lots or less in which all lots are larger than ten (10) acres.

#### **§3.02. Items Common to All Water Availability Demonstrations**

The following items shall be addressed in all water availability demonstrations prepared under these regulations, regardless of the source(s) utilized:

- (A) An estimate of the amount of water demand throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development;
- (B) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source;
- (C) A description of any anticipated new water facility improvements required to serve the development;
- (D) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision;
- (E) An estimated timetable for completion of all facilities; and,
- (F) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all water facilities throughout all phases of development shall be identified and included in the application.

### **§3.03. Notification for All Developments Utilizing Local Groundwater**

This Subchapter addresses the requirements that Subdivisions and Manufactured Home Rental Communities must meet to demonstrate water availability using Local Groundwater for the purposes of obtaining a Development Authorization from the County. These Regulations do not include the details for requirements on the withdrawal and use of groundwater that may originate from the regulations of other entities. The public is hereby notified that portions of Hays County are within the jurisdiction of other governmental entities, including Groundwater Conservation Districts and the Edwards Aquifer Authority, which regulate the withdrawal and use of groundwater under direct authority from the State of Texas, independent from the authority of Hays County. Within their statutory authority, these other governmental entities may impose requirements in addition to those contained in these Regulations. The Department shall cause to be included in any Development Authorizations issued under these Regulations a notice that states that valid limitations imposed by these other authorized entities are incorporated as a special provision into the terms of the County's Development Authorization and may be enforced as such by the County. The Department shall also develop and publish requirements for incorporating into the Record Documents notice of the requirements of these other governmental entities.

Where applicable federal, state or local statutes require Applicants to submit water availability certifications to other governmental entities, the Applicant shall document compliance with these requirements. Where the Department is made aware of applicable regulations of other entities, the Department shall process any Application as requesting a variance where that Application is determined to not be in compliance with such other regulations. It is the intention of these Regulations that all Applications be processed, to the extent authorized under State law, to not conflict with Groundwater Management Area planning efforts, established sustainable yields, desired future conditions, and managed available groundwater volumes.

### **§3.04. Procedures for Department Coordination with the Applicable Groundwater Conservation District**

For all water availability demonstrations which rely in whole or in part on Local Groundwater, the Department shall ensure that a copy of the water availability demonstration is submitted to the applicable groundwater conservation district(s) [GCD] for review and comment. Where the Applicant is required to make such a submittal under §715.3.03, the Department shall forward to the GCD within ten (10) working days of receipt, a written request for review and comment on the portion of the availability demonstration relying on Local Groundwater. Where such submittal to the GCD is not otherwise required by the Applicant, the Department shall forward the information to the GCD within ten (10) working days of receipt, with a written request for review and comment on the portion of the availability demonstration relying on Local Groundwater. If the Department has not received written comments from the GCD within fifteen (15) working days, the GCD shall be considered as having waived the opportunity for review and comment on the availability demonstration. The Department shall consider all comments received from the GCD and may request such additional information from the Applicant as the Department deems appropriate in response to these comments. The Department shall include a summary of any comments timely received from the applicable GCD in any report made to the Commissioners Court on an Application. If the County has adopted a



Memorandum of Understanding (MOU) with any GCD, the Department shall follow the procedures outlined in the MOU.

**§3.05. Water Availability Demonstrations Using Individual Private Water Wells Producing Local Groundwater**

In addition to the requirements outlined in §715.3.02, Applicants requesting approval to utilize one or more individual private water wells using Local Groundwater to serve the proposed development shall construct at least two wells (one test well and one monitor well). Use of existing wells will be permitted if the wells fully meet these regulations. Well analyses shall be performed by a Texas licensed professional engineer or Texas licensed professional geoscientist, qualified to perform the hydrogeological testing, geophysical well logging and aquifer pump testing. The following information shall be provided to Commissioners Court for each well tested.

- (A) Identify the hydrogeologic formation by well driller’s log and approved geophysical logging methods. Provide a map and list of all known wells within 1,000 feet of the proposed subdivision boundaries (or a distance where measurable drawdown effects from the proposed subdivision well are expected). Each well is to be located by latitude and longitude.
- (B) The Certification of Groundwater Availability For Platting Form as required by the TCEQ rules on Groundwater Availability Certification for Platting at 30 Tex. Admin. Code Section 230.3. The Department shall require an applicant to submit any engineering calculations, studies or other data supporting the statements contained in the Certification of Groundwater Availability For Platting Form.

Individuals marketing the development shall provide each purchaser or renter with a statement describing the extent to which water and wastewater service will be made available, and how and when such service will be made available.

**§3.06. Additional Requirements for Subdivisions Served by Individual Water Wells Producing Local Groundwater in Priority Groundwater Management Areas**

Applicants requesting approval to utilize individual private water wells producing Local Groundwater to serve proposed new development in a Priority Groundwater Management Area, as that term is defined by the Texas Commission on Environmental Quality, shall be subject to the following additional requirements:

- (A) The person preparing the groundwater availability certification shall document that they obtained available information on historical water levels and known water wells from the applicable Groundwater Conservation District.
- (B) The person preparing the groundwater availability certification shall perform a walking receptor survey around the perimeter of the Subject Property to identify the visual location of apparent undocumented water wells and to visually confirm the presence of documented water wells within five hundred (500) feet of the boundaries of the subject property.
- (C) The person preparing the groundwater availability certification shall estimate the average annual recharge (per acre) in the vicinity of the Subject Property using a Groundwater

Availability Model (GAM) reviewed and approved by the Texas Water Development Board.

- (D) The person preparing the groundwater availability certification shall utilize the estimated annual average recharge rates (developed under §715.3.06.C) to determine the total estimated annual recharge for the footprint area of the Subject Property. The estimated annual recharge for the Subject property shall be compared to the projected annual groundwater withdrawal, to assess whether the projected withdrawal exceeds the estimated recharge. For developments where the projected withdrawal exceeds estimated recharge, the Applicant shall take one or more of the following steps:
- (1) Comply with the minimum lot size requirement of 6.00 acres, as presented in Table 705.05.01;
  - (2) Provide a supplemental demonstration of water availability based on an Other Water Supply System and prorate the minimum lot size requirement using 6.00 acres for the percentage provided by Local Groundwater and the otherwise applicable value from Table 705.05.01 for the Other Water Supply System; or,
  - (3) Subject to the requirements of §715.3.06(F), secure the future development rights for currently undeveloped property in a quantity sufficient to balance the groundwater withdrawal for the Subject Property with overall recharge from the Subject Property and other property, and provide Written Notice, as outlined in Chapter 701, to the owners of all proximate property for which a groundwater well is documented or discovered during the walking receptor survey and the owners of any other documented well within one-quarter mile of the Subject Property, that the projected groundwater use for the proposed development is being offset through the acquisition of additional property. The Department shall make available to the public standardized notice language for this purpose.
- (E) For developments where the availability of groundwater is limited to less than the flow required to support fully developed conditions, the Applicant shall include in the Water and Wastewater Service Plan the procedures to be utilized to limit groundwater withdrawal to the certified available quantity.
- (F) Property outside the Subject Property that is used for the purpose of balancing the groundwater withdrawal for the Subject Property shall comply with the following conditions:
- (1) Eligible additional property must recharge to the same aquifer zone as the Subject Property and be within the same PGMA.
  - (2) All such additional property shall be subject to a conservation easement or equivalent legal mechanism structured to prohibit in perpetuity its future subdivision or development. The easement or instrument shall be granted to the public and shall be held by the County or other non-profit legal entity recognized by the County as custodian for the County. Such easement or instrument shall be in such form and under such conditions as are acceptable to the County.
  - (3) For properties located within the jurisdiction of public entities having zoning authority, the Applicant shall provide documentation that the zoning for the additional property is

“agricultural”, “open space” or other equivalent zoning that allows little to no development of the additional property.

- (4) The additional property shall either be contiguous to the Subject Property or located within five (5) miles of the Subject Property.
- (5) Additional property that is contiguous to the Subject Property may be considered as providing the same recharge as the Subject Property.
- (6) Additional property that is not contiguous but is located within five (5) miles of the Subject Property shall be considered as providing seventy five percent (75%) of the recharge provided by the Subject Property.
- (7) In instances where the Applicant proposes to secure the development rights from a property (the originating property) that is outside the jurisdiction of the County and within the jurisdiction of one or more local governmental entities, the Applicant must provide documentation of the written approval of the transfer from each such local governmental entity with jurisdiction over the originating property.

**§3.07. Water Availability Demonstrations Utilizing a new TCEQ public water supply system:**

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through a new public water supply system shall include the following information in the Water and Wastewater Service Plan:

- (A) If water service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.
- (B) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the Applicant shall supply a letter to the Department from the water service provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.
- (C) Within ten (10) working days of receiving this supply letter, the Department shall notify in writing all governmental entities which the Department has record of having jurisdiction over any aspect of water supply to the proposed development requesting their comments on the letter. In instances where the water service provider does not own or otherwise control the source(s) of supply, the Department may require that the Applicant obtain supporting documentation certifying the availability of adequate supply from the actual water supply source(s) in addition to the information required to be provided by the water service provider. The Department shall include in any Development Authorization a Special Provision recognizing the requirements of any other governmental entity with established jurisdiction over the proposed development. Any disputes between the Applicant, water service provider and other governmental jurisdictions shall be heard by the Commissioners Court.
- (D) For developments within the jurisdiction of a Groundwater Conservation District that utilize groundwater in their demonstration, a formal groundwater availability analysis, in

accordance with 30 TAC 230, shall be completed, along with a statement acknowledging that all applicable requirements of the GCD will be met.

**§3.08. Water Availability Demonstrations Utilizing an existing TCEQ-permitted public water supply:**

If wholesale or retail water service is to be provided by an existing water utility or other existing water service provider, an applicant shall submit a written statement from the existing provider containing the following:

- (A) A description of the authority of the existing provider to serve the proposed phase of development.
- (B) A statement as to whether the existing provider has available capacity to serve the proposed phase of development, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development.
- (C) A description of the type of water service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.
- (D) Identification of any anticipated water supply or service agreements that will need to be executed prior to the provision of service.
- (E) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.
- (F) Within ten (10) working days of receiving this supply letter, the Department shall notify in writing all governmental entities which the Department has record of having jurisdiction over any aspect of water supply to the proposed development requesting their comments on the letter. In instances where the water service provider does not own or otherwise control the source(s) of supply, the Department may require that the Applicant obtain supporting documentation certifying the availability of adequate supply from the actual water supply source(s) in addition to the information required to be provided by the water service provider. The Department shall include in any Development Authorization a Special Provision recognizing the requirements of any other governmental entity with established jurisdiction over the proposed development. Any disputes between the Applicant, water service provider and other governmental jurisdictions shall be heard by the Commissioners Court.

**§3.09. Water Availability Demonstrations Utilizing Rainwater Harvesting**

In addition to the requirements outlined in §715.3.02, Applicants proposing to serve a development through rainwater harvesting shall include the following information in the Water and Wastewater Service Plan:

- (A) Estimates of the water availability from rainwater harvesting shall be based upon the “The Texas Manual on Rainwater Harvesting”, published by the Texas Water Development Board, or other industry standard sources acceptable to the Department.

- (B) Water demand estimates for demonstrations involving rainwater harvesting, including demonstrations utilizing multiple water sources, may not be lower than the largest value of the following:
  - (1) The maximum water usage rates for “water conserving households” identified by the American Water Works Association, “Residential End Uses of Water”;
  - (2) A total of forty five (45) gallons per person per day;
  - (3) A total of one hundred fifty (150) gallons per dwelling unit per day.
- (C) The Water and Wastewater Service Plan shall include a standardized design for a rainwater harvesting system, prepared by a Texas licensed professional engineer, using design parameters applicable to the location of the Subject Property. This standardized design shall be based on a prototype representative of actual conditions anticipated to be present in the proposed development, including typical structure sizes and materials of construction. The standardized design shall include schematic plans, drawings and descriptions for the various component parts of the prototype system, and shall include any minimum requirements (e.g. minimum storage tank sizes) and appropriate adjustment factors to be used for each component to account for the range of differing sizes and configurations of structures anticipated to be present in the proposed development.
- (D) The Water and Wastewater Service Plan shall include a standardized operations and maintenance plan for a rainwater harvesting system, prepared by a Texas licensed professional engineer. This operating and maintenance plan shall be based on the prototypical design and shall describe in detail the operating and maintenance requirements for each component of the prototypical rainwater harvesting system.
- (E) The Water and Wastewater Service Plan shall clearly identify any water conservation measures and use limitations used in estimating the water demand and shall include the provisions to be utilized to ensure that the end users of the rainwater harvesting systems are aware of the need to follow these restrictions.
- (F) Where rainwater harvesting constitutes the sole source of water supply for the development, the Applicant shall incorporate sufficient restrictions (including deed restrictions and plat notes) into the development documents to ensure that subsequent owners or users of the property do not install or utilize groundwater wells, until an updated water availability demonstration is approved documenting sufficient groundwater is available.

#### ***Sub-Chapter 4 - Wastewater Service Availability***

##### **§4.01. Development Permits**

The Department shall issue no On-Site Sewage Facility or development permit on any parcel of land unless that property is in compliance with all the requirements of these Regulations.

##### **§4.02. Items Common to All Wastewater Availability Demonstrations**

The following items shall be addressed in all wastewater availability demonstrations prepared under these regulations, regardless of the management method(s) utilized:

- (A) A description of any new wastewater collection, treatment, storage, pumping and conveyance facilities. If the project is to be phased, the description must address all wastewater facilities proposed to be utilized throughout full build-out of the development.
- (B) An estimate of the amount of wastewater that will be treated and managed throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out.
- (C) A statement as to whether there are plans for alternative or backup wastewater service; if so, an identification of the alternative or backup wastewater source.
- (D) A map showing the location of all wastewater facilities throughout all phases of development as well as the proposed wastewater service area, including any TCEQ-approved service area boundaries of a wastewater service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed development.
- (E) Include an estimated timetable for completion of facilities.
- (F) Identification of the proposed method of wastewater effluent disposal or re-use and a listing of any TCEQ permits that will be needed to implement the proposed wastewater disposal or re-use.
- (G) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all wastewater facilities throughout all phases of development shall be identified and included in the application.

**§4.03. Wastewater Availability Demonstrations Utilizing a new TCEQ-permitted wastewater system:**

Applicants proposing to serve a development through a new wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with wastewater service. The Water and Wastewater Service Plan shall at a minimum contain the following information:

- (A) Identification of the proposed method of wastewater effluent disposal or re-use and a listing of any TCEQ permits that will be needed to implement the proposed wastewater disposal or re-use.
- (B) If wastewater service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.
- (C) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide wastewater service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

**§4.04. Wastewater Availability Demonstrations Utilizing an existing TCEQ-permitted wastewater system**

Applicants proposing to serve a development through an existing wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with wastewater service. The Water and Wastewater Service Plan shall at a minimum contain the following information:

- (A) A description of the authority of the existing provider to serve the proposed phase of development.
- (B) A statement as to whether the existing provider has available capacity to serve the proposed phase of development.
- (C) A description of the type of wastewater service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.
- (D) Identification of any anticipated wastewater service agreements that will need to be executed prior to the provision of service.
- (E) Prior to the approval of the final plat the applicant shall supply a letter to the Department from the utility provider certifying that:
  - (1) They have the authority to provide wastewater service;
  - (2) That there will be sufficient capacity to serve all phases of the proposed development;
  - (3) And that all required agreements have been executed.

**§4.05. Developments to be served by On-Site Sewage Facilities:**

Applicants proposing to serve a development by On-Site Sewage Facilities shall submit a design report sealed by a Texas licensed professional engineer or a Texas registered sanitarian describing how the proposed development will be provided with wastewater service. The wastewater design report shall at a minimum contain the information required by Item §715.04.02 and must meet the requirements of the Hays County On-Site Sewage Facilities rules.

**CHAPTER 716 - RESERVED**



**CHAPTER 717 - RESERVED**

**CHAPTER 718 - RESERVED**

**CHAPTER 719 - RESERVED**

**CHAPTER 720 - RESERVED**

## **CHAPTER 721 - ROADWAY STANDARDS**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. Applicability**

This Chapter shall govern the following items related to Regulated Roadways within the County:

- (A) The design and construction of all Regulated Roadways as defined in Chapter 701.
- (B) The minimum roadway widths and building set back lines for Regulated Roadways.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234, and under the Texas Transportation Code (TTC) Chapters 251, 286 and 545.

#### **§1.03. Approval Required**

Approval of the Commissioners Court is required prior acceptance by the County of Regulated Roadways. Separate approval is required under Chapter 751 for any use of existing County facilities, including roadway rights-of-way, which are not part of the Application for a Development Authorization.

### ***Sub-Chapter 2 - Roadway Classifications***

#### **§2.01. Basis for Classification**

Regulated Roadways shall be classified based on the criteria established in “A Policy on Geometric Design of Highways and Streets”, latest edition, as developed by the American Association of State Highway and Transportation Officials (AASHTO). For the purposes of these Regulations, regulated roadways shall be designed to handle the average daily traffic (ADT) estimated to occur for a period of twenty (20) years following completion of construction of the roadway, with the pavement sections and widths required to accommodate the design ADT at the applicable speed limits adopted by the County. At a minimum, pavement sections and widths shall conform to the suggested minimum requirements established by AASHTO for the specified classification of roadway. Roadways shall also be classified under TTC Chapter 251. Roadway classification information is included in Table 721.02.

#### **§2.02. Country Lane**

A Country Lane shall be a one or two lane paved roadway, without improved shoulders, and considered a Special Purpose Road with a design capacity of up to 100 ADT in accordance with AASHTO design standards, and third-class roadways in accordance with TTC Chapter 251.

#### **§2.03. Local Roadway**

A Local Roadway shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Local Rural Road with a design capacity of between 101 and 1,000 ADT in accordance with AASHTO design standards, and third-class roadways in accordance with TTC Chapter 251.

**§2.04. Urbanized Local Roadway**

An Urbanized Local Roadway shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Special Purpose Road with a design capacity of up to 1,000 ADT in accordance with AASHTO design standards and third-class roadways in accordance with TTC Chapter 251.

**§2.05. Minor Collector**

A Minor Collector shall be a two lane paved roadway, with improved shoulders or curb and gutter, and considered a Rural Collector with a design capacity of 1,001 to 2,500 ADT in accordance with AASHTO design standards, and may be either second-class or third-class roadways in accordance with TTC Chapter 251.

**§2.06. Major Collector**

A Major Collector shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Collector with a design capacity of 2,501 to 5,000 ADT in accordance with AASHTO design standards, and may be either first-class or second-class roadways in accordance with TTC Chapter 251.

**§2.07. Minor Arterial**

A Minor Arterial shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of 5,001 to 15,000 ADT in accordance with AASHTO design standards, and may be either second-class or third-class roadways in accordance with TTC Chapter 251.

**§2.08. Major Arterial**

A Major Arterial shall be a two lane or larger paved roadway, with improved shoulders or curb and gutter, and considered a Rural Arterial with a design capacity of greater than 15,000 ADT in accordance with AASHTO design standards, and may be either first-class or second-class roadways in accordance with TTC Chapter 251.

***Sub-Chapter 3 - Public Roadways***

**§3.01. Dedication to Public**

Any dedication of a roadway to the County for public use shall be accomplished using one of the methods allowed under Chapter 701, Subchapter 11. No dedication shall be effective until the record document is recorded. In no event shall any private lot extend into a dedicated public roadway.

**§3.02. Publicly Maintained and Dedicated Roadways**

Roadways dedicated to the public (Public Roadways) shall be required in all developments approved under these Regulations, except those satisfying the criteria for private roadways, as set forth below. All such Public Roadways shall be paved and shall be Regulated Roadways designed and constructed in accordance with the specifications set forth in Chapter 721, Subchapter 5. The boundary lines of all subdivision Lots fronting onto a publicly dedicated right-of-way shall be contiguous with the boundary of the right-of-way.

### **§3.03. Construction of Public Roadways**

Public Roadways shall be considered public infrastructure, subject to the requirements of Chapter 731. Unless interim authorization for construction is obtained under Chapter 731, construction of public roadways shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations.

### **§3.04. Connections to Public Roadways under the Jurisdiction of Other Entities**

Certain Regulated Roadways and appurtenances governed by these Regulations may require connection to or construction on or within the right-of-way of public roadways under the jurisdiction of other public entities, including the Texas Department of Transportation (TXDOT), or any other authorized state or federal government entity. All construction and access to these roadways conducted in conjunction with a development authorized under these Regulations shall comply with the requirements of the entity having jurisdiction over the affected public roadway.

## ***Sub-Chapter 4 - Private Roadways***

### **§4.01. General Requirements for Private Roadways**

All private roadways qualifying as Regulated Roadways (Regulated Private Roadways) shall be designed and constructed in accordance with the standards in Chapter 721, Subchapter 5 for Public Roadways. All Regulated Private Roadways shall have a surface suitable for all-weather access to all portions of the proposed development served by such Regulated Private Roadway.

### **§4.02. Criteria for Determining Private Roadway Status**

Regulated Private Roadways shall be permitted only in conjunction with a development approved under these Regulations if they satisfy each of the following criteria:

- (A) The person(s) responsible for the operation and maintenance of the Regulated Private Roadway has executed an agreement with the Commissioners Court acknowledging responsibility for such operation and maintenance;
- (B) The executed agreement includes financial assurance, as required by the Commissioners Court; and,
- (C) Lots within the development served by the Regulated Private Roadway shall have an average size greater than five (5) acres; or,
- (D) The Commissioners Court has entered into an approved Development Agreement with the Owner or Permittee regarding the development of a master-planned community of no fewer than fifty (50) residential Lots.

### **§4.03. General Requirements for Maintenance of Private Roadways**

Development Authorizations that include the use of Regulated Private Roadways shall be subject to a maintenance agreement with the County. The person(s) responsible for maintenance under the agreement may be the Owner of the Subject Property, the Permittee, or another person or entity acceptable to the County. The following provisions apply to Regulated Private Roadways:

- (A) The following note shall be conspicuously displayed on the Record Documents filed in conjunction with the Development Authorization:

[Owner], by filing this Record Document, and all future owners of this property, by purchasing such property, acknowledge and agree that Hays County shall have no obligation whatsoever to repair or accept maintenance of the roadways shown on this approved development plan until and unless [Owner] and/or the property occupants or tenants have improved the roadways to the then current standards required by Hays County and the roadways have been accepted for maintenance by formal, written action of the County Commissioners Court and the roadways, with all required right-of-way and building setbacks, have been dedicated by the owners thereof, and accepted by the County, as public roadways. [Owner] and all future owners of property within the limits of the approved development plan shall look solely to the [Owner or Entity entering into Maintenance Agreement with the County] for future maintenance and repair of the roadways included in this development plan; and

- (B) Any restrictive covenants establishing a responsibility for roadway operation and maintenance shall be placed on record concurrently with the recording of the Record Documents.
- (C) Regulated Private Roadways shall be operated and maintained to allow unrestricted ingress/egress by the occupants of the property and service providers, including emergency services. The maintenance agreement with the County shall include enforcement provisions for Regulated Private Roadways that are not properly operated and maintained.

#### **§4.04. Additional Requirements for Private Roadways to be Maintained by an Association**

Concurrently with the filing of an Application for a Development Authorization that will include Regulated Private Roadways, the Applicant shall submit the following:

- (A) Ready-for-execution copies of the articles of incorporation and bylaws of the homeowners or property owners association; and,
- (B) The minimum annual assessments that will be imposed upon members of the association.

### ***Sub-Chapter 5 - Standards for Regulated Roadways***

#### **§5.01. Applicability**

Regulated Roadways are defined in Chapter 701, and include all roadways associated with an Application for a Development Authorization under these Regulations, including existing public roadways that are being connected or modified to accommodate the effects of a proposed development, new roadways dedicated to the public as part of a Development Authorization, new private roadways, shared access easements, and shared access driveways used for emergency services access as a part of a Development Authorization, and driveways, utilities, storm water management facilities or other facilities within the right-of-way of a Regulated Roadway.

#### **§5.02. Design Requirements**

All Regulated Roadways and related improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and roadways and



to permit continuity of improvements to adjacent properties. A Roadway Design Report, prepared by a Texas licensed professional engineer, certifying compliance with these Regulations and other applicable standards shall be prepared and submitted with the Application.

### **§5.03. Minimum Rights of Way and Building Setbacks**

All Regulated Roadways shall comply with the established minimum right-of-way widths and building setback lines based on the roadway classification. Above-grade construction is prohibited within the established building setback lines. Building setback lines apply on each side of a Regulated Roadway. The established minimum right-of-way widths and building setback lines are presented in Table 721.02, below.

### **§5.04. Design and Construction Standards**

- (A) The classification and construction standards for all Regulated Roadways shall be determined according to the Average Daily Traffic anticipated for the roadways. The Roadway Design Report shall include estimates of the Average Daily Traffic (ADT) before and after the proposed development. The methodology for estimating ADT shall be based on recognized industry standards, including those utilized by the Texas Department of Transportation (TXDOT) and AASHTO. The post-development ADT shall be based on the maximum number of Lots that would be permitted in the approved development plan.
- (B) The geometric requirements for Regulated Roadways shall be identified in the Roadway Design Report and shall be designed to accommodate the design ADT of the roadway. The minimum geometric standards for Regulated Roadways are summarized in Table 721.02.
- (C) The design and construction of all Regulated Roadways shall conform to the Hays County Specifications for Paving and Drainage Improvements, as adopted by the Department, and shall include all necessary improvements, including necessary signage and traffic control devices. All signage and traffic control devices shall conform to the “Texas Manual of Uniform Traffic Control Devices,” latest edition, as adopted by TXDOT. Speed bumps are not authorized as traffic control devices on Public Roadways. Pedestrian elements (e.g. sidewalks, crosswalks, access ramps, etc.) for projects in Public Roadways shall comply with the accessibility requirements of the Texas Department of Licensing and Regulation (TDLR), and if required, shall be submitted to TDLR for review and approval.
- (D) There is an incentive for Lots Larger than Five Acres. As an incentive to developers to create lots larger than five acres and to reduce their associated development costs, Country Lane roadways may be constructed, without calculation of the Average Daily Traffic, if all Lots with frontage or access onto the roadway are (i) larger than five acres in size, (ii) restricted by a note on the Record Document limiting development to one single family dwelling unit per Lot and prohibiting TCEQ Regulated Development, and (iii) the application is approved by the Department.
- (E) There are incentives for Bicycle Paths and Lanes. If portions of a Local Roadway or Minor Collector are set aside and appropriately designated for the use of bicycles (or a separate bike path is constructed parallel to the roadway), then the amount of right-of-way dedicated to such bicycle use shall be credited against the width of required

shoulders and the Department may reduce the estimated Average Daily Traffic per Lot in determining the design criteria for the roadway served by the bicycle path/lane, in an amount determined appropriate by the Department.

- (F) Clearance of Right-of-Way: upon request by the Owner, the Department shall, to the extent it is safe and prudent to do so, permit preservation of trees of greater than ten inches (10") in diameter, measured one foot from the ground (or the replanting of trees by the Owner), within rights of way of roadways classified as Country Lanes, Local Roadways and Minor Collectors, with greater preservation of trees permitted along roadways with the lower design speed. The Owner shall be responsible for affixing reflectors or other safety devices to any trees preserved within the right-of-way.

#### **§5.05. Access to Regulated Roadways**

Except with respect to Lots served by Shared Access Driveways, each Lot shall have the minimum direct frontage onto a Regulated Roadway set forth below and Driveways shall be spaced no closer than the minimum space intervals set forth below, depending on the classification of road onto which the Lot has frontage and the driveway has access. All such driveways shall conform to the Hays County Driveway Specifications, as adopted by the Department.

- (A) Incentive for Qualifying Lots. Qualifying Lots will be exempt from the minimum lot frontage and driveway spacing requirements specified above if approved by the Department and Commissioners Court with due regard to safety concerns. A Qualifying Lot is any Lot that (i) is restricted by plat note to development of a single family residence, (ii) has direct access onto a Regulated Roadway and (iii) satisfies the minimum Lot size requirements set forth in these Regulations either through actual lot size or lot size averaging.
- (B) Flag Lots. Flag lots shall generally not be permitted, except if approved by the Commissioners Court as consistent with the intent and spirit of these Regulations. The Department shall advise the Commissioners Court if a proposed Lot constitutes a "flag lot" and the Commissioners Court shall, in reviewing all the circumstances, make the final determination.

#### **§5.06. Commercial Driveways**

Driveways serving commercial development shall be spaced at the minimum intervals of one hundred fifty feet (150'). Joint-use driveways may be utilized in situations that limit the number of driveway access permits that are issued by either the State of Texas or Hays County to a public roadway, or where safety concerns provide a satisfactory explanation for its use.

#### **§5.07. Shared Access Driveways**

Up to one (1) Lot without independent access to a Regulated Roadway may obtain access to a Regulated Roadway by means of a Shared Access Driveway if approved by the Commissioners Court. An additional two (2) Lots having independent access to a Regulated Roadway may also share the use of the Shared Access Driveway. Shared Access Driveways are intended as a means to provide flexibility in the development process, preserve the rural character of the land and avoid excessive infrastructure costs when such costs would provide little or no social benefit. Shared Access Driveways are not intended to serve as a substitute for interior roads. Excessive

use of Shared Access Driveways will not be permitted. Any application proposing shared access driveways shall also satisfy the following requirements:

- (A) A plat note must be conspicuously displayed on the plat stating:
  - (1) All lots served by a Shared Access Driveway are restricted to one single family residence per lot and if any other Development of a Dwelling Unit occurs on any of the Lots obtaining access through the Shared Access Driveway, then such new Dwelling Unit must be constructed on a separately platted lot with direct frontage onto and physical access to a Regulated Roadway prior to construction of the Dwelling Unit. A duplex will not be considered a single family residence for purposes of this subparagraph.
  - (2) The owners of the Single Family Residences obtaining access through the Shared Access Driveway shall be solely responsible for all maintenance of the driveway, including maintaining any drainage structures associated with the driveway. The driveway must be maintained at all times in a condition that will permit unencumbered vehicular access by emergency vehicles.
- (B) Each of the Lots sharing the use of the Shared Access Driveway shall hold equal, indivisible and unrestricted rights in the Shared Access Driveway, which rights shall be established by recorded easement and the easement shall run with the land of each of the benefited Lots. The easement instrument shall clearly state each Lot's pro rata responsibility with respect to future maintenance or repairs of the Shared Access Driveway.
- (C) The Shared Access Driveway shall be no longer than one quarter mile in length and must have a minimum distance of (a) 200 feet from any other driveway entering onto the Regulated Roadway and (b) 500 feet from any other Shared Access Driveway.
- (D) The Shared Access Driveway shall have a name or designation approved by the County "911" Coordinator and a separate "911" address shall be established as for each Lot which relies on a Shared Access Driveway for access.
- (E) Up to three (3) Lots not having independent access to a Regulated Roadway may share a Shared Access Driveway with up to two (2) Lots having independent access to a Regulated Roadway if all other requirements of this are met and all Lots using or adjacent to the Shared Access Driveway are larger than five acres in size and restricted by Plat note limiting development to one single family residence per Lot and prohibiting TCEQ Regulated Development.

#### **§5.08. Coordination with "911" Addressing System**

If not previously established, all Applications for Development Authorization submitted to the County that include a new or altered Regulated Roadway, shared access easement, or a shared access driveway shall obtain approval for the names and/or designations for such roadways, easements or driveways from the County "911" Coordinator, in accordance with Chapter 701, Subchapter 16. The Applicant shall also establish a "911" address for all lots or components of the development served by a Regulated Roadway, shared access easement or shared access driveway associated with that development, in accordance with Chapter 701, Subchapter 16.

**§5.09. Speed Limits for Regulated Roadways**

- (A) If not previously established, all Applications for Development Authorization submitted to the County that include a new or altered Regulated Roadway, shared access easement, or a shared access driveway shall establish an appropriate maximum speed limit for such roadways, easements or driveways. Such established maximum speed limits shall not be greater than the maximum speed limits authorized under TTC Chapter 545.352 but shall not be less than the lower maximum speed limits authorized under TTC Chapter 545.355 for the specific type of roadway under consideration. For roadways with speed limits that are established at less than the maximum speed limits authorized under TTC Chapter 545.352, the Roadway Design Report shall include an explanation of the reasons for the reduced maximum speed limits.
- (B) Speed limits shall not take effect until such time as the County approves and issues the Development Authorization under which those speed limits were established and signage indicating the established speed limit(s) is actually posted along the roadway.

**§5.10. Construction Quality Assurance for Regulated Roadways.**

The Permittee shall submit document all required inspections and tests at the completion of each phase of construction of the roadway. Construction Quality Assurance testing shall comply with the following:

- (A) Tests on all components of the pavement system, including plasticity index, tests for compacted density, depth of base, distribution of asphalt, and other quality assurance tests required by the County’s adopted roadway construction specifications.
- (B) It is the responsibility of the Permittee to coordinate all inspections and laboratory tests with the Department and not to proceed with construction until proper inspections and tests have been obtained.
- (C) Any laboratory tests and test holes shall be at the expense of the Permittee.
- (D) In no event will any subsequent component be placed on the roadway until the underlying components have been approved in writing by the Department.

**Table 721.02 – Design Requirements Based on Roadway Classification**

Functional Classification	Country Lane	Local Roadway	Urbanized Local Roadway	Minor Collector	Major Collector	Minor Arterial	Major Arterial
AASHTO Classification	Special Purpose	Local Rural	Special Purpose	Rural Collector	Rural Collector	Rural Arterial	Rural/Urban Arterial
Average Daily Traffic (ADT - one way trips*)	Not more than 100	101-1000	Not more than 1000	1001-2500	2501-5000	5001-15000	More than 15,000
Design Speed (mph)	25 mph	25 mph	25 mph	35 mph	45 mph	55mph	**
No. of Travel Lanes	2	2	2	2	2	4	**
Turn Lanes	No	No	No	No	**	**	**
Min. ROW Width (ft)	50	60	40	60	80	100	**
Building Setback (ft)	25	25	25	25	50	50	50
Width of Travelway (ft)	18	20	18	22	24	48	**
Width of Shoulders (ft)	2	4	2	5	6	8	**
Minimum Centerline Radius (ft)	200	300	200	375	675	975	**
Min. Tangent Length between Reverse or Compound Curves (ft)	50	100	50	150	300	500	**
Min. Radius for Edge of Pavement at Intersections (ft)	25	25	25	25	25	25	**
Intersection Street Angle Range (degrees)	80-100	80-100	80-100	80-100	80-100	80-100	**
Max. Grade (%):	11	11	10	10	9	8	**
Min. Street Centerline offset at Adjacent Intersections (ft)	110	125	110	125	125	125	**
Min. Stopping Sight Distance (ft)	175	175	175	250	350	550	**
Min. Intersection Sight Distance (ft)	250	250	250	350	450	550	**
Ditch Foreslope Grade	4:01	4:01	4:01	5:01	5:01	6:01	**
Ditch Backslope Grade	3:01	3:01	3:01	4:01	4:01	4:01	**
Min. Cul-de-sac ROW/ Pavement Radius (ft)	70/45	70/45	70/45	70/45	N/A	N/A	N/A
Min. "T" End ROW/ Pavement Length (ft)	80/65	80/65	80/65	N/A	N/A	N/A	N/A
Min. "T" End ROW/ Pavement Width & Radius (ft)***	40/20	40/20	40/20	N/A	N/A	N/A	N/A
Min. Lot Frontage (ft)	30	50	30	100	150	150	150
Min. Drive Spacing (ft)	50	50	50	75	120	120	120

Notes:

\* ADT shall be based on an average of 10 one-way trips per dwelling unit per day for residential lots. ADT calculations for commercial or other lots shall approved by the Department on a case-by-case basis.

\*\* Noted elements shall be approved by the County Engineer on a case-by-case basis.

\*\*\* "T" End Designs must conform to minimum AASHTO Standards

AASHTO – American Association of State Highway and Transportation Officials

Building Setback – Minimum building setback, in feet, applicable to each side of the roadway

*Sub-Chapter 6 - Transportation Planning*

**§6.01. Right-of-Way Dedication**

An application for a Development Authorization under these regulations, including subdivision plats and manufactured home rental communities, shall be required to dedicate right of way in accordance with the currently adopted Hays County and Capital Area Metropolitan Planning Organization Transportation Plans.

**CHAPTER 722 - RESERVED**

**CHAPTER 723 - RESERVED**



**CHAPTER 724 - RESERVED**

## **CHAPTER 725 - STORM WATER MANAGEMENT STANDARDS**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. Applicability**

This Chapter shall govern the design, construction and public dedication and use of all drainage, flood control and storm water management facilities and features (hereafter “storm water management facilities”) for Subdivisions and Manufactured Home Rental Communities within the County but outside the incorporated limits of any municipality in the County.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 232 and 562.

#### **§1.03. Approval Required**

Approval of the Commissioners Court is required prior to acceptance by the County of drainage, flood control or storm water features. Separate approval is required under Chapter 751 for any use of County facilities, including roadway rights of way.

### ***Sub-Chapter 2 - Public Facilities***

#### **§2.01. Dedication to Public**

Any dedication of storm water management facilities to the public shall be accomplished using one of the methods identified in Chapter 701, Subchapter 11. Storm water management facilities to be constructed within dedicated public roadways shall not require separate dedication. In no event shall any private lot extend into a dedicated public storm water management feature.

- (A) All public storm water management facilities and other areas of concentrated storm water flow shall be contained within a dedicated public easement or right-of-way.
- (B) All areas within a floodplain, as identified in Subchapter 3 of this Chapter, shall be contained within a dedicated public easement or right-of-way.

#### **§2.02. Publicly Maintained and Dedicated Facilities**

Storm water management facilities dedicated to the public (hereafter “Public storm water management facilities”) shall be required to provide proper drainage of Regulated Roadways in all developments approved under these Regulations. Constructed public storm water management facilities shall be designed and constructed in accordance with Subchapter 3 of this Chapter. Areas occupied by existing watercourses may also be dedicated to the public as a part of a Development Authorization issued under these Regulations. In the initial submittal to the County (e.g. the preliminary plan or the Infrastructure Development Plan), the Applicant shall identify all storm water management facilities for which County acceptance of maintenance will be requested. Applicants proposing County acceptance of maintenance for storm water management facilities controlling runoff rate or storm water quality from within the development shall be required to enter into a Development Agreement with the County prior to acceptance of maintenance.

### **§2.03. Construction of Public Storm Water Management Facilities**

Public storm water management facilities shall be considered public infrastructure, subject to the requirements of Chapter 731. Unless interim authorization for construction is obtained under Chapter 731, construction of public storm water management facilities shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations.

#### ***Sub-Chapter 3 - Design Criteria***

### **§3.01. Design of Storm Water Management Facilities**

All storm water management facilities and related improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of storm water management and to permit continuity of storm water management facilities to adjacent properties. All storm water management facilities shall be designed and/or evaluated by a Texas licensed professional engineer. Documentation evidencing compliance with these Regulations shall be submitted to the Department with the Application. Drainage, flood control and storm water management design methodologies shall be based upon the methods used by the Texas Department of Transportation or other commonly accepted engineering practices used within the area. All design and/or evaluation computations for flood plains and storm water management facilities shall be based on fully developed upstream conditions. For upstream areas that extend off the Subject Property, the Applicant may estimate the fully developed conditions based on information available from the Department based on regional planning efforts or other criteria adopted by the County.

### **§3.02. Control of Runoff Rate and Volume**

Storm water runoff from any proposed development that is discharged from the Subject Property onto adjacent property owners into any other county storm water management facility or any such storm water management facility associated with an existing roadway, whether public or private, must be released at a controlled rate. For storm events including the two (2), five (5), ten (10), twenty-five (25), and one hundred (100) year frequency, storm water runoff may be discharged under the post-development conditions at a rate no greater than the pre-development condition. Post-development storm water management calculations shall be based on fully developed conditions. The Department shall require the submission of materials documenting that the proposed development will be in compliance with this Section.

### **§3.03. Sizing of Storm Water Management Facilities**

All storm water management facilities, including ditches, drainage pipes, roadway curbs, gutter inlets, driveway or roadway culverts, and storm sewers shall be designed to intercept and transport storm water runoff to a public storm water management facility or a defined watercourse.

- (A) Storm water management facilities shall be sized to prevent inundation during the 25-year frequency design storm event for all portions of lots not within a building setback line.
- (B) Storm water management facilities crossing Regulated Roadways shall be sized to accommodate runoff from the following frequency design storm events without inundating the roadway, based upon the classification of Roadway, as set forth below.

**Table 731.03 – Design Storm Frequency Based on Roadway Classification**

Roadway Classification	Storm Frequency
Country Lane	5 year
Local Roadway	10 year
Urbanized Local Roadway	10 year
Minor Collector	15 year
Major Collector	25 year
Minor Arterial	25 year
Major Arterial	25 year

- (C) Unless a larger minimum size is specified by the design engineer, all driveway culverts shall be at least eighteen (18) inches in diameter.

**§3.04. Conveyance of 100-Year Storm Frequency Flows**

In addition to the minimum design criteria included in this Subchapter, the storm water management system shall be designed to convey all channelized or concentrated flows from a 100 year frequency storm within defined right-of-way or easements.

**§3.05. Maximum Headwater Elevation for Roadway Crossings**

- (A) All roadways, culverts underneath roadways, and bridges shall be designed so that storm water runoff from the frequency storm event designated below crossing such roadway or bridge shall not produce a headwater elevation at the roadway greater than six (6) inches above the roadway crown elevation, nor shall it produce a design flow over the roadway at a velocity greater than ten (10) feet per second, based upon the classification of the roadway affected by the storm water management structure:

**Table 731.04 – Design Storm Frequency Based on Roadway Classification**

Roadway Classification	Storm Frequency
Country Lane	25 year
Local Roadway	25 year
Urbanized Local Roadway	25 year
Minor Collector	25 year
Major Collector	100 year
Minor Arterial	100 year
Major Arterial	100 year

- (B) A permanent depth gauge shall be placed at all roadway crossings where the 100 year frequency flow or lesser frequency is anticipated to flow over the roadway surface. The Commissioners Court may require installation of gates or warning devices at all or some of such locations.
- (C) All roadway storm water facility crossings shall be designed and constructed to withstand the impact of water being impounded adjacent to the storm water management facility up to and including the 100 year frequency.

(D) This Section does not apply to driveway culverts.

### **§3.06. Public Safety Considerations**

All public storm water management facilities, including driveway culverts, shall be designed with public safety considerations. Public storm water management facilities constructed within Regulated Roadways shall comply with the safety standards published by the Texas Department of Transportation. All driveways shall conform to the Hays County Driveway Specifications.

### **§3.07. Identification of Special Flood Hazard Areas**

- (A) Regulatory floodplains (identified as Areas of Special Flood Hazard) and Regulatory Floodways may be defined based on available mapping.
- (B) A drainage area of sixty four (64) acres or greater within a contributing watershed for which a Regulatory floodplain has not previously been identified shall require the identification of a local flood plain. For areas of flow with less than sixty four (64) acres of contributing area, the identification of a local flood plain is not required; however, any concentrated flow necessitates the dedication of a drainage easement.
- (C) Development within an Area of Special Flood Hazard must conform to the requirements of Chapter 735. Only limited utility, roadway or pedestrian crossings and fences that do not obstruct flow will be permitted in drainage easements.

### **§3.08. Completion of Drainage System Prior to Acceptance of Roadway Maintenance**

No roadways will be accepted for maintenance by the County until all storm water management facilities, including drain pipes for all driveways constructed as of the acceptance date, have been installed by the Applicant or Permittee and inspected and approved by the Department. Permanent vegetation must be established or financial assurance must be provided to permanently stabilize any remaining areas disturbed during construction.

## ***Sub-Chapter 4 - Areas Subject to Local Water Quality Requirements***

### **§4.01. Compliance Required**

Developments located in areas governed by the applicable water quality requirements of another jurisdiction shall identify all such requirements in their Storm Water Management Plan. The Applicant shall furnish to the County copies of all documents prepared for the development to satisfy the requirements of such other applicable water quality management requirements.

### **§4.02. Incorporation by Reference**

Applicable storm water quality requirements adopted by other jurisdictions within Hays County are hereby incorporated into these Regulations. Compliance with these referenced requirements may be included as a special provision in any Development Authorization issued by the County.

### **§4.03. Notice of the Storm Water Quality Requirements of Other Jurisdictions**

The following water quality requirements promulgated by other jurisdictions govern portions of Hays County:

- (A) The City of Austin water quality and environmental ordinances, effective in the ETJ of the City of Austin.

- (B) The City of Buda Water Quality Ordinance, effective in the ETJ of the City of Buda.
- (C) The City of Dripping Springs Water Quality Ordinance, effective in the ETJ of the City of Dripping Springs.
- (D) The City of Kyle Water Quality Ordinance, effective in the ETJ of the City of Kyle.
- (E) The City of San Marcos Environmental Ordinances, effective in portions of the ETJ of the City of San Marcos.
- (F) The Lower Colorado River Authority (LCRA) Highland Lakes Watershed Ordinance, applicable in portions of western Hays County, within the watersheds of the Highland Lakes.
- (G) The TCEQ Edwards Aquifer Program, for those portions of the County designated as being within either the contributing zone or the recharge zone of the Edwards Aquifer, as adopted under Title 30, Texas Administrative Code (TAC), Chapter 213.
- (H) The TCEQ Construction Site Storm Water Permitting Program, regulating all construction activities disturbing more than one (1) acre, anywhere within Hays County.
- (I) The TCEQ Municipal Separate Storm Sewer System (MS4) Permitting Program, effective February 11, 2008, for those portions of the County designated as “Urbanized Areas” by the U.S. Census Bureau, as identified in the County’s “Storm Water Management Program” (SWMP) approved by the Texas Commission on Environmental Quality. Urbanized areas subject to the requirements of the SWMP are designated in the SWMP.

### ***Sub-Chapter 5 - Incentives for Lots Larger Than Five Acres***

#### **§5.01. Incentives for Lots Larger than Five Acres**

If the Application is for a subdivision with five (5) Lots or less under Chapter 705 and all Lots in the proposed subdivision are larger than five acres and restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated Development, then such subdivision shall be deemed to be in compliance with this Chapter and no additional materials need be submitted to demonstrate compliance to the Director.

- (A) Notwithstanding the preceding requirements, all drainage facilities affecting Local Roadways, Urbanized Local Roadways or Minor Collectors may be designed based on a five-year frequency design storm event if all Lots in the development are restricted to one single family residence per Lot and prohibiting TCEQ Regulated Development and the design of such drainage structures is approved by the Department. All drainage construction will, however, be subject to the remainder of this Chapter.
- (B) Notwithstanding the preceding requirements, all Country Lanes, Local Roadways, Urbanized Local Roadways or Minor Collectors, and culverts underneath such roadways, may be designed based on a ten-year storm frequency if all Lots in the development are restricted to one single family residence per Lot and prohibiting TCEQ Regulated Development and the design of such drainage structures is approved by the Department. All drainage construction will, however, be subject to the remainder of this Chapter and Chapter 731. This incentive shall not apply to bridges.

**CHAPTER 726 - RESERVED**

**CHAPTER 727 - RESERVED**



**CHAPTER 728 - RESERVED**

**CHAPTER 729 - RESERVED**

**CHAPTER 730 - RESERVED**

## **CHAPTER 731 - CONSTRUCTION AND ACCEPTANCE OF MAINTENANCE FOR PUBLIC INFRASTRUCTURE**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern the construction process for public infrastructure and the procedures and conditions for the County to accept maintenance responsibility for any public infrastructure. Public infrastructure shall include:

- (A) Public roadways;
- (B) Public storm water management facilities and features;
- (C) Public utilities, including water and wastewater utilities; and,
- (D) Public safety and emergency access features.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 232 and 562.

#### **§1.03. Approval Required**

Unless interim authorization for construction is obtained under this Chapter, construction of public infrastructure shall not commence until such time as a Development Authorization has been issued by the County on an Application filed under these Regulations. Approval of the Commissioners Court is required prior to the County's acceptance of maintenance responsibility for public infrastructure.

#### **§1.04. Submittal Requirements for Public Infrastructure**

Concurrently with the filing of an Application for a Development Authorization under these Regulations, an Applicant seeking approval to construct public infrastructure and related improvements that will be operated and maintained by the County, shall submit the following:

- (A) Construction Plans for the improvements, including a certification by a Texas licensed Professional Engineer that the Construction Plans and design of the improvements are in compliance with these Regulations; and,
- (B) The anticipated unit cost of each type of improvement and the total estimated construction cost of all improvements proposed to be constructed in conjunction with the development, prepared by a Texas licensed Professional Engineer.

### ***Sub-Chapter 2 - Construction***

#### **§2.01. Approval Required Prior to Construction**

- (A) Unless interim authorization for construction is obtained under this Subchapter, construction of public infrastructure shall not commence until such a time that a Development Authorization has been issued by the County on an Application filed under these Regulations.

- (B) By submitting Construction Plans for public infrastructure, the Applicant is acknowledging that they are aware of and is representing that the Permittee will comply with all requirements of Hays County regarding construction and development in effect at the time the Application was submitted, including:
- (1) the requirement regulating the access of private construction vehicles from construction sites onto existing Public roadways, requiring the Permittee to take certain steps to limit and clean all mud or other debris carried onto the public roadways by such construction vehicles and imposing fines for non-compliance;
  - (2) the requirements: a) that a permit be obtained prior to commencement for all construction within County right-of-way, including driveways, utilities and storm water management improvements and the cutting of any existing roadways for installation of utilities, b) that the work be inspected prior to completion, c) prohibiting cutting of certain roadways within three (3) years of construction thereof; and, d) imposing fines for non-compliance;
  - (3) The requirement concerning construction standards for structures projecting above the ground surface (including mailboxes, signs, etc.) installed within the right-of-way of public roadways and requiring all such structures to be made of break-away or collapsible materials, as defined by the Department, unless those structures are located along internal subdivision roads with speed limits of 30 MPH or less or non-thoroughfare roadways with speed limits of 30 MPH or less; and,
  - (4) the requirement to comply with all construction standards and specifications adopted by the Department, as outlined in Chapter 799.
- (C) The Department shall review the construction plans and cost estimates for public infrastructure submitted by the Applicant. If the Department determines that the construction plans and cost estimates comply with these Regulations, the Department shall issue a written approval of the construction plans and cost estimates. This written approval shall indicate that it is an approval of the design and construction methods only and that it is not an approval of the entire Application with which it was submitted. If the Department determines that the construction plans and cost estimates are not in compliance with these Regulations, the Department shall issue a written request for information identifying those items the Department believes are not in compliance with these Regulations, and requesting that the construction plans and/or cost estimates be revised and re-submitted.

## **§2.02. Interim Authorization for Construction**

The following requirements shall apply to public infrastructure for which interim authorization for construction is sought prior to issuance of a Development Authorization by the County:

- (A) An applicant wishing to construct public infrastructure prior to the issuance of a Development Authorization by the County shall submit a written request for interim authorization for construction. This written request shall include the project information for the original Application and shall indicate the proposed public infrastructure for which the Applicant is seeking interim authorization to construct. This request may be granted by the Department based on the Department's review and approval of the Construction Plans and the satisfactory submittal of the financial assurance items required by this Subchapter.

- (B) In the case of a subdivision for which the County has issued an approval of the Preliminary Plan, and for which the Department has issued an approval of the construction plans and cost estimates, the Applicant or Permittee may commence construction of public infrastructure and related improvements upon the posting of an acceptable Performance Assurance with no further approvals required.
- (C) An Applicant or Permittee shall post with the Department an acceptable Performance Assurance equal to the full value (100%) of the estimated construction costs for the public infrastructure and related improvements.
- (D) In the event the construction of the public infrastructure is completed prior to the County's issuance of the Development Authorization, the Applicant or Permittee may request release of the Performance Assurance.

### **§2.03. Construction Occurring After Issuance of Development Authorization**

The following requirements shall govern the construction of public infrastructure and related improvements that occurs following the County's issuance of a Development Authorization:

- (A) Prior to the Department's issuance of a Development Authorization for which the construction of the public infrastructure and related improvements has not yet been completed, the Applicant or the Permittee shall post with the Department an acceptable Performance Assurance. The value of the Performance Assurance shall be equal to the full value (100%) of the estimated construction costs for the public infrastructure and related improvements.
- (B) If a Development Authorization is issued prior to completion of construction of all related public infrastructure, an acknowledgment that no Development Authorization will be issued for any Lot until completion of sub-grade of the Permitted Street serving the Lot and, if applicable, installation of all underground utilities.

### **§2.04. Installation of Public Infrastructure Under Public Roadways**

All utility lines, storm water management facilities, and other public infrastructure planned to be constructed under a new paved roadway shall be installed before the roadway is paved. All utility lines, storm water management facilities, and other public infrastructure installed under an existing paved roadway shall be bored to a point at least four (4) feet beyond the edge of the pavement and must be approved in advance by the Department, unless otherwise approved by the Commissioners Court.

### **§2.05. Temporary Construction Erosion Controls**

All construction of roadways, whether public or private, shall comply with the Hays County Erosion and Sedimentation Control Manual adopted by the Department, as well as the applicable requirements of other jurisdictions regarding temporary erosion control measures.

### **§2.06. Development Authorizations within approved Subdivisions**

No Development Authorization for a Lot within a subdivision for which the County has issued a Development Authorization shall be issued until the subgrade of the Regulated Roadway serving the Lot has been completed and, if applicable, the installation of all underground public infrastructure.

### **§2.07. Construction Changes**

Changes in the construction of public infrastructure and related improvements shall require the approval of the Department. Minor changes that do not conflict with the terms of the Development Authorization may be verbally authorized by the field inspector, with those changes subsequently documented in a field change form. For other changes, the Applicant or Permittee shall provide a written request for approval of the change to the Department. The request for the change shall be accompanied by sufficient additional information to identify the changes requested and to allow the changes to be evaluated by the Department for compliance with these Regulations. Where determined to be necessary by the Department, the changes shall be accompanied by new or revised construction plans, specifications and cost estimates prepared by a Texas licensed professional engineer. If the Department determines that the proposed construction changes result in substantive changes to the estimated construction costs, the provision of additional Performance Assurance may be required.

### **§2.08. Interim Inspections**

The Applicant or Permittee shall provide written notice to the Department of the start of construction of public infrastructure and related improvements and shall designate in such notice a contact person to coordinate construction inspections with the Department. The Department shall conduct such interim inspections as it deems necessary. Interim inspections may be conducted without notice. Where the Applicant, Permittee or their contractors require or request inspection by the Department, a minimum of one (1) full working day's notice is required. The Department may issue verbal or written inspection reports. The Applicant or Permittee is responsible for correcting any deficiencies noted during interim inspections.

### **§2.09. Final Inspection**

Once construction of public infrastructure and related improvements is substantially complete, the Applicant or Permittee shall submit a written request to the Department to conduct a final inspection. This inspection shall be conducted by the Department to determine if all the public infrastructure and related improvements reflected on the construction plans have been constructed in accordance with the Regulations and the construction plans. The Applicant or Permittee is responsible for correcting any deficiencies noted during final inspections. Upon satisfactory completion of a final inspection, the Department shall issue to the Applicant and/or Permittee a written final inspection report, including any minor deficiencies or "punch list" items to be corrected prior to release of Performance Assurance and preparation of the as-built submittals. If permanent vegetation has not been established, the Applicant or Permittee must provide financial assurance to the County that would provide sufficient funds to complete revegetation.

### **§2.10. As-built Submittals**

Following completion of the construction of public infrastructure and related improvements and a final inspection by the Department, the Applicant or Permittee shall submit to the Department:

- (A) A written certification stating that the construction is "substantially complete, complies with the construction standards as established by the Hays County Development Regulations, and was completed in conformance with the approved construction plans and any approved changes," signed by a Texas licensed professional engineer; and,

- (B) A complete set of as-built plans incorporating all changes made during construction, signed and sealed by a Texas licensed professional engineer.

### **§2.11. Release of Performance Assurance**

Following completion of the construction of public infrastructure and related improvements, and a final inspection by the Department, the Applicant or Permittee may submit to the Department a written request for release of the Performance Assurance. Before release of the performance assurance, the Department shall inspect the public infrastructure and related improvements and the Applicant or Permittee shall remedy all deficiencies prior to release of the performance assurance. If the deficiencies are not properly remedied, the County shall draw on the performance assurance as necessary to remedy the deficiencies. The Performance Assurance is not considered released until the County has issued a written release of such Performance Assurance. Release of the Performance Assurance shall be conditioned upon:

- (A) Substantial completion of the construction;
- (B) Receipt by the Department of a certificate of substantial completion and compliance, and a set of as-built plans incorporating all changes made during construction, prepared by a Texas licensed professional engineer;
- (C) Satisfactory completion of all interim and the final inspections by the Department;
- (D) Permanent vegetation must be established or financial assurance must be provided to permanently stabilize any remaining areas disturbed during construction;
- (E) The Department submittal to the Commissioners Court of an Inspection Report stating that:
  - (1) the public infrastructure, in its current condition and with no repairs, upgrades or improvements, is in compliance with the Regulations, other applicable requirements, and with the construction plans and approved changes, and,
  - (2) the Department recommends release of the Performance Assurance by the Commissioners Court; and,
- (F) Approval of release of the Performance Assurance by the Commissioners Court.

### ***Sub-Chapter 3 - Acceptance of Public Infrastructure for Maintenance***

#### **§3.01. Owner's Maintenance Responsibility**

The Applicant or Permittee shall remain responsible for all maintenance and repair of planned public infrastructure and related improvements associated with a development until the County formally accepts the obligation to maintain such public infrastructure. The County's issuance of a Development Authorization or the acceptance of a Final Plat or dedication of the right-of-way for a public roadway shall not be deemed to constitute acceptance of the public infrastructure for maintenance.

#### **§3.02. County Acceptance of Maintenance**

The County shall accept public infrastructure and related improvements when the following conditions have been satisfied:



- (A) The public infrastructure has been constructed in accordance with these Regulations, the Record Documents required for the public infrastructure have been recorded and the associated right-of-way has been dedicated to the public pursuant to these Regulations;
- (B) The Applicant or Permittee has submitted a written request to the Department for the County to formally accept maintenance of the public infrastructure. If the Applicant or the Permittee are no longer available, (i.e. has ceased to transact any business or, in the case of an individual, has died), the Owner(s) of the Subject Property may submit the written request;
- (C) A Texas licensed professional engineer on behalf of the Applicant or Permittee has submitted a certificate of substantial completion and compliance, and a set of as-built plans incorporating all changes made during construction;
- (D) The Department has performed and approved all required inspections;
- (E) The Department has inspected the public infrastructure and related improvements no earlier than 30 days prior to the Commissioners Court's acceptance of the maintenance obligation and has submitted to the Commissioners Court an Inspection Report stating that:
  - (1) the public infrastructure, in its current condition and with no repairs, upgrades or improvements, is in compliance with the Regulations and all other guidelines in effect at the time of the inspection; and,
  - (2) the Department recommends acceptance of the public infrastructure by the Commissioners Court; and,
- (F) One of the following has occurred:
  - (3) Two (2) years has expired from the date that all public infrastructure and related improvements associated with the development were first completed and inspected by the Department; or,
  - (4) The Permittee has posted with the Department satisfactory Maintenance Assurance to secure the proper construction and maintenance of the public infrastructure prior to County acceptance of maintenance. Maintenance Assurance must be posted, regardless of the date the public infrastructure and related improvements were completed.

### **§3.03. Release of Maintenance Assurance**

Before release of the Maintenance Assurance, the Department shall again inspect the public improvements and the Permittee shall remedy all deficiencies prior to release of the Maintenance Assurance. If the deficiencies are not promptly remedied, the County shall make the repairs and draw on the Maintenance Assurance for payment.

## ***Sub-Chapter 4 - Financial Assurance***

### **§4.01. County as Beneficiary**

All Financial Assurance (including Performance Assurance, Maintenance Assurance, or other financial assurance) used to satisfy these Regulations shall name the County as the beneficiary and recipient of all rights and privileges thereto.

#### **§4.02. Acceptable Mechanisms**

Financial assurance, as required within these regulations, shall be provided using a mechanism acceptable to the County. The Department shall develop, maintain and make available to the public standard forms for this purpose. While other mechanisms may be approved for use, the following mechanisms are recognized for the purposes of these regulations:

- (A) A fully funded Trust Agreement, with an entity acceptable to the County serving as Trustee;
- (B) A bond issued by a surety acceptable to the County and listed as an acceptable surety on Federal bonds in Circular 570 of the United States Department of the Treasury; or,
- (C) An irrevocable standby letter of credit, issued by a surety acceptable to the County.

#### **§4.03. Performance Assurance**

This section applies in instances where the Applicant or Permittee utilizes Performance Assurance to satisfy the requirements of these Regulations. The Applicant or Permittee shall continue to be responsible for all other requirements set forth in these Regulations.

With the permission of the Commissioners Court, the Applicant or Permittee shall post an acceptable financial assurance mechanism in an amount equal to 100% of the estimated construction costs of the public infrastructure and related improvements. The Commissioners Court must approve each application to post such a performance assurance and the performance assurance mechanism shall remain in effect until the public infrastructure and related improvements have been accepted by the County and the Performance Assurance released pursuant to Subchapter 3.

#### **§4.04. Maintenance Assurance**

This section applies in instances where the Applicant or Permittee utilizes Maintenance Assurance to satisfy the requirements of these Regulations. The Applicant or Permittee shall continue to be responsible for all other requirements set forth in these Regulations. The Maintenance Assurance shall be provided in an amount equal to 10% of the total construction costs of the public infrastructure and related improvements. The Maintenance Assurance shall have a minimum term of two (2) years following acceptance by the County.

#### **§4.05. County Claims Against Financial Assurance**

The County may make claims against any financial assurance provided under these Regulations if it finds that the actions for which the financial assurance was provided have not been completed satisfactorily. Prior to making a claim against a financial assurance mechanism, as allowed under these Regulations, the County shall provide written notice to the Trustee or Surety of such claim, with a copy to the Applicant and Permittee, and shall allow a minimum period of fourteen (14) calendar days to remedy such claim. Claims which have not been remedied within fourteen (14) calendar days shall be immediately due and payable under the terms of the applicable financial assurance mechanism.

#### **§4.06. Financial Assurance Mechanism Expiration and Renewal**

In the event that a financial assurance mechanism submitted to the County pursuant to this Chapter expires prior to the acceptance by the County of the work assured by the financial

assurance mechanism, the Permittee shall submit a replacement financial assurance mechanism prior to its expiration. Such replacement financial assurance mechanisms shall comply with all the requirements of this Subchapter.

**CHAPTER 732 - RESERVED**

**CHAPTER 733 - RESERVED**

**CHAPTER 734 - RESERVED**

## **CHAPTER 735 - FLOOD DAMAGE PREVENTION**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern activities associated with development in Hays County, Texas.

#### **§1.02. Legal Authority**

The Legislature of the State of Texas has, in TEXAS WATER CODE ANNOTATED, Sections 16.313, 16.315, and 16.318, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapter 232 and under the Texas Water Code in Chapters 26 and 35. Therefore, the Commissioners Court of Hays County, Texas, does hereby adopt the following flood management regulations.

#### **§1.03. Findings of Fact**

- (A) The flood hazard areas of Hays County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
- (B) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses which are vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

#### **§1.04. Statement of Purpose**

- (A) It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to: Protect human life, health, safety, and welfare;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges and culverts located in floodplains;
- (F) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and,
- (G) Ensure that potential buyers are notified that property is in a flood hazard area.
- (H) Protect the beneficial functions of floodplains.

#### **§1.05. Approval Required Prior to Development**

Approval of the County is required prior to conducting development activities in Flood Hazard Areas, unless excluded or exempted under State law or as exempted below.

### **§1.06. Methods of Reducing Flood Losses**

In order to accomplish its purposes, this Chapter authorizes the use of the following methods:

- (A) Restrict or prohibit uses that are dangerous to health, safety or property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage throughout their intended lifespan;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation or channeling of flood waters;
- (D) Control filling, grading, dredging and other development which may increase flood damage; and,
- (E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### ***Sub-Chapter 2 - Definitions Specific to This Chapter***

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

- (1) Alluvial Fan Flooding - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
- (2) Apex - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- (3) Appeal Board - means the Hays County Commissioners Court.
- (4) Appurtenant Structure – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
- (5) Area of Future Conditions Flood Hazard – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.
- (6) Area of Shallow Flooding - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (7) Area of Special Flood Hazard - means the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO,



AR/AH, AR/A, VO, V1-30, VE, or V. The term “special flood hazard area,” for purposes of these regulations, is synonymous with the phrase “area of special flood hazard.”

- (8) Base Flood - means the flood having a 1 percent chance of being equaled or exceeded in any given year (also called the “regulatory flood”).
- (9) Base Flood Elevation (BFE) - means the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.
- (10) Basement - means any area of the building having its floor subgrade (below ground level) on all sides.
- (11) Breakaway Wall – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- (12) Building – see “Structure.”
- (13) Certification – means a certification by a Texas registered professional engineer or other party that does not constitute a warranty or guarantee of performance, expressed or implied. Certification of data is a statement that the data is accurate to the best of the certifier’s knowledge. Certification of analyses is a statement that the analyses have been performed correctly and in accordance with sound engineering practices. Certification of structural works is a statement that the works are designed in accordance with sound engineering practices to provide protection from the base flood. Certification of “as built” conditions is a statement that the structure(s) has been built according to the plans being certified, is in place, and is fully functioning.
- (14) Critical Facility – means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.
- (15) Critical Feature - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
- (16) Development - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
- (17) Elevated Building – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- (18) Existing Construction - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before

January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

- (19) Existing Manufactured Home Park or Subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- (20) Expansion to an Existing Manufactured Home Park or Subdivision - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (21) Fill, also known as Earthen fill – means fill that is sometimes placed in a Special Flood Hazard Area (SFHA) to reduce flood risk to the filled area. The placement of fill is considered development and will require a permit under applicable Federal, state and local laws, ordinances, and regulations. Fill is prohibited within the floodway unless it has been demonstrated that it will not result in any increase in flood levels. Some communities limit the use of fill in the flood fringe to protect storage capacity or require compensatory storage. The use of fill is prohibited for structural support of buildings in V Zones.
- (22) Flood or Flooding - means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) the overflow of inland or tidal waters.
  - (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- (23) Flood Boundary and Floodway Map (FBFM) – means the official map of a community on which FEMA has delineated the areas of flood hazards and regulatory floodway.
- (24) Flood Elevation Study – means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- (25) Flood Hazard Boundary Map (FHBM) – means an official map of a community, issued by FEMA, where the boundaries of the special flood hazard areas have been identified in Zone A.
- (26) Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- (27) Flood Insurance Study (FIS) – see “Flood Elevation Study.”
- (28) Floodplain or Flood-Prone Area - means any land area susceptible to being inundated by water from any source (see definition of flooding).

- (29) Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- (30) Floodplain Management Regulations - means this Chapter, along with such other subdivision and development regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- (31) Flood Proofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (32) Flood Protection System - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- (33) Floodway – see “Regulatory Floodway.”
- (34) Freeboard – means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effects of urbanization of the watershed.
- (35) Functionally Dependent Use - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- (36) Habitable Structure – means a structure suitable for human habitation including, but not limited to, single or multi-family residences, hotels, condominium buildings, and buildings for commercial purpose. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartment, then the entire building, not the individual apartment, is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements.
- (37) Highest Adjacent Grade - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (38) Historic Structure - means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (a) By an approved state program as determined by the Secretary of the Interior; or,
    - (b) Directly by the Secretary of the Interior in states without approved programs.
- (39) Increased Cost of Compliance (ICC) – means the coverage by a standard flood insurance policy under the NFIP that provides for the payment of a claim for the cost to comply with the State of Texas and Hays County floodplain management laws or ordinances after a direct physical loss by flood, when Hays County declares the structure to be “substantially” or “repetitively” flood-damaged. ICC coverage is provided for in every standard NFIP flood insurance policy and will help pay for the cost to floodproof, relocate, elevate, or demolish the structure.
- (40) Levee - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- (41) Levee System - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- (42) Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.
- (43) Manufactured Home - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- (44) Manufactured Home Rental Community or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

- (45) Map – means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.
- (46) Mean Sea Level - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- (47) New Construction - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- (48) New Manufactured Home ~~Park~~ Rental Community or Subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- (49) Non-habitable Structure - means a structure that is not suitable or intended for human habitation.
- (50) Participating Community – means a community in which FEMA has authorized the sale of flood insurance. Also known as an eligible community.
- (51) Principally Above Ground – mean that at least 51 percent of the actual cash value of the structure is above ground.
- (52) Recreational Vehicle - means a vehicle which is:
  - (1) built on a single chassis;
  - (2) 400 square feet or less when measured at the largest horizontal projections;
  - (3) designed to be self-propelled or permanently towable by a light duty truck; and,
  - (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (53) Reasonably safe from flooding – means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (54) Repetitive Loss – means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damages occurred.

- (55) Regulatory Floodway - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- (56) Riverine – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- (57) Special Flood Hazard Area – see “Area of Special Flood Hazard” – means an area having special flood hazard and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AH, A99, or AR,.
- (58) Start of Construction - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (59) Structure – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- (60) Substantial Damage - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (61) Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred “repetitive loss” or "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- (62) Variance – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

- (63) Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
- (64) Water Surface Elevation - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### ***Sub-Chapter 3 - General Provisions***

#### **§3.01. Lands to Which This Chapter Applies**

This Chapter shall apply to all areas of special flood hazard within the jurisdiction of Hays County, Texas.

#### **§3.02. Basis for Establishing the Areas of Special Flood Hazard**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study for Hays County, Texas," dated February 18, 1998, with accompanying effective Flood Insurance Rate Maps and/or Flood Boundary- Floodway Maps (FIRM and/or FBFM) dated September 2, 2005, and any revisions thereto, are hereby adopted by reference and declared to be part of this Chapter.

#### **§3.03. Establishment of Development Permit System**

A Flood Hazard Area Permit System is hereby established to ensure compliance with the provisions of this Chapter. This system shall require an Application for a Development Authorization by the Applicant or the Permittee seeking the Development Authorization.

A county-wide application system is a necessary and reasonable action to insure that all permits for development in flood hazard areas have been obtained. The Commissioners Court through the Floodplain Administrator will develop and promulgate any and all forms as may be necessary for the implementation of this court order.

Additional floodplain data may be generated which will improve the accuracy of floodplain boundary identification. Since the County will constantly be aware of map changes and additional data, the responsibility for determining whether a property or development is within a flood hazard area must rest with the Hays County Floodplain Administrator. Flood Hazard Boundary Maps published by the Federal Insurance Administration delineate only the major flood prone areas within the County. With a County-wide review procedure, the Floodplain Administrator will be able to make recommendations for construction standards which will minimize or eliminate the possibility of damage from localized drainage problems.

#### **§3.04. Compliance**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Chapter and other applicable regulations.

#### **§3.05. Abrogation and Greater Restrictions**

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **§3.06. Interpretation**

In the interpretation and application of this Chapter, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

### **§3.07. Warning and Disclaimer of Liability**

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

### **§3.08. Establishment of Fees**

The Commissioners Court, upon the recommendation of the Floodplain Administrator, shall establish application fees commensurate with the service rendered by the County. Development fees are payable at the time of application.

## ***Sub-Chapter 4 – Administration***

### **§4.01. Designation of the Floodplain Administrator**

The Commissioners Court shall appoint the Floodplain Administrator to administer and implement the provisions of this Chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management. If no other individual has been appointed by the Commissioners Court, the Director of the Department, or his designee, shall serve as the Floodplain Administrator.

### **§4.02. Duties and Responsibilities of the Floodplain Administrator**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (A) Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.
- (B) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (C) Review, approve, or deny all applications for development permits required by adoption of this Chapter.



- (D) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor of all new construction and substantial improvements, in accordance with Sec. 735.04.04(A)(2).
- (E) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures in A-Zones have been flood proofed, in accordance with Sec. 735.04.04(A)(2).
- (F) Review permits for proposed development within a special flood hazard area to assure that all necessary permits have been obtained from those Federal, State, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) or by area-wide agencies from which prior approval is required prior to issuing a development permit. Such documentation is to be maintained on file with the development permit.
- (E) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- (F) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (G) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (H) When base flood elevation data has not been provided in accordance with Section §735.3.02, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Subchapter 5 of this Chapter.
- (I) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by Section 65.12.
- (J) Participate actively in evaluating the variance requests and provide input and recommendations in variance hearings/proceedings.
- (K) Coordinate all change requests to the FIS and FIRM or FHBM, or both, with the requester, State, and FEMA.

#### **§4.03. Classification of Flood Hazard Area Permits**

Development Authorizations issued as Flood Hazard Area Permits (FHAP) shall be classified as follows:

- (A) Development located on real property for which there is no Flood Hazard area delineated shall qualify for a Class A (Exemption Certificate) FHAP. The FHAP shall state that the proposed development is located on real property that does not lie within an identified Flood Hazard Area and that the construction standards contained in this Chapter are not applicable to the proposed development. Class A FHAPs (Exemption Certificates) shall be issued by the Floodplain Administrator.
- (B) Habitable structures located on real property in flood hazard areas shall require a Class B FHAP. Class B FHAPs that comply with the terms of this Chapter may be issued by the Floodplain Administrator. Variances requested in conjunction with a Class B FHAP shall require approval of the Commissioners Court.
- (C) Non-habitable structures or development located on real property in flood hazard areas shall require a Class C FHAP.

The Floodplain Administrator shall issue FHAPs that comply with the terms of this Chapter, including specifically authorized variances.

#### **§4.04. Permit Procedures**

- (A) Applications for an FHAP will be processed in accordance with Chapter 701 of the Hays County Development Regulations.
- (B) Application for a Flood Hazard Area Permit shall be presented, prior to undertaking any development activities, to the Floodplain Administrator on forms furnished by him/her and must include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area under consideration for development, proposed landscape alterations, existing and proposed structures and other features, including the placement of manufactured homes, earthen fill, storage of materials or equipment, drainage facilities, perimeter setbacks, environmental features such as base floodplain areas, wetlands, and other protected areas, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information, certified by a Texas professional who is authorized to certify such information, is required:
  - (1) Application Stage:
    - (a) Elevation (in relation to mean sea level) of the area of development for both existing and proposed development.
    - (b) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
    - (c) Elevation (in relation to mean sea level) to which any nonresidential structure shall be flood proofed;
    - (d) A certificate from a Texas ~~licensed~~ registered professional engineer or Texas licensed architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Subchapter 5 of this Chapter;
    - (e) Existing and proposed infrastructure;

- (f) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and,
- (g) Maintain a record of all such information in accordance with Subchapter 4 of this Chapter.

(2) Construction Stage:

Upon placement of the lowest floor, or flood proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor or flood proofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a Texas registered land surveyor or Texas licensed professional engineer who is authorized to certify such information, and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk.

The Floodplain Administrator shall review the lowest floor elevation and flood proofing certificate. Should these documents be found not in conformance with the requirements of these rules, the permit holder shall immediately cease further work, and shall correct any deficiencies. Failure of the permit holder to submit the surveyed lowest floor elevation and flood proofing certificate, and failure to correct said deficiencies required hereby, shall be the cause to issue a stop-work order for the project.

- (C) Approval or denial of a Flood Hazard Area Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:
  - (1) The danger to life and property due to flooding or erosion damage;
  - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (3) The danger that materials may be swept onto other lands to the injury of others;
  - (4) The compatibility of the proposed use with existing and anticipated development;
  - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
  - (7) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - (8) The necessity to the facility of a waterfront location, where applicable; and,
  - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (D) It shall be unlawful to use, occupy or permit the use or occupancy of any building, development, or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Flood Hazard Area Permit has been

issued by the Floodplain Administrator stating that the use of the development conforms to the requirements of this Chapter.

#### **§4.05. Expiration of Flood Hazard Area Permits**

Approval of a Flood Hazard Area Permit shall expire and be of no further force and effect in the event that:

- (A) None of the activities authorized in the permit are commenced within one (1) year from the date of issuance; or,
- (B) All of the activities authorized in the permit are not completed within two (2) years from the date of issuance.

#### **§4.06. Variance Procedures**

- (A) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this Chapter.
- (B) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.
- (C) Any person(s) aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (E) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.
- (F) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section §735.4.03(B) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (G) Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.
- (H) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (I) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (J) Prerequisites for granting variances:

- (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (2) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (3) Any applicant to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, ~~and~~ that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation, and that such construction below the base flood level increases risks to life and property.
- (K) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Section §735.04.04(B) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (L) A request for variance is not an after-the-fact request and should be made prior to the commencement of any development activities sought under an FHAP.

### ***Sub-Chapter 5 - Provisions for Flood Hazard Reduction***

#### **§5.01. General Standards**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (C) All new construction or substantial improvements shall be constructed with materials and utility elements resistant to flood damage;
- (D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

- (G) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (H) When located in multiple flood zones with varying base flood elevations or in the same flood zone with multiple base flood elevations, the requirements for the flood zone with the most stringent requirements and the highest base flood elevation shall apply.
- (I) Base flood elevation data and floodway boundaries shall be generated by a detailed engineering study for development purposes in Zone A and within 100 feet of the contour lines of Zone A, as indicated on the community's FIRM, if the Floodplain Administrator requires this based on proximity to channel, or obvious inaccuracy of the FIRM in area of the proposed development, or historical records of flooding. The Applicant shall bear the cost of the engineering studies.

### **§5.02. Specific Standards**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Subchapter 3, (ii) Subchapter 4, or (iii) Subchapter 5, the following provisions are required:

- (A) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation. A Texas registered professional engineer, Texas licensed architect, or Texas licensed land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section §735.04.03 is satisfied.
- (B) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least one (1) foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Texas registered professional engineer or Texas licensed architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
- (C) Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Texas registered professional engineer or Texas licensed architect or meet or exceed the following minimum criteria:
  - (1) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

- (2) The bottom of all openings shall be no higher than 1 foot above the floor or bottom of the interior of the enclosed structure
  - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (D) Manufactured Homes -
- (1) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
  - (2) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one (1) foot above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, on all sites:
    - (a) Outside of a manufactured home park or subdivision;
    - (b) In a new manufactured home park or subdivision;
    - (c) In an expansion to an existing manufactured home park or subdivision; or,
    - (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
  - (3) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH, and AE on the community's FIRM that are not subject to the provisions of Section §735.5.02(D)(2) be elevated so that either:
    - (a) The lowest floor of the manufactured home is at or above the base flood elevation; or,
    - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (E) Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section §735.4.03, and the elevation and anchoring requirements for "manufactured homes" in Section §735.5.02(D)(2). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- (F) Fences in Special Flood Hazard Area
  - (1) Exempted Fencing -- No Flood Hazard Area Permit is required for open pipe, rail, or wire fencing that is 90% "open" and that have posts less than 14" diameter placed no closer than 8-feet apart.
  - (2) Non Exempt Fencing-- any proposed fence in a 100-year floodplain that is not an exempt fence is considered to be development and requires issuance of a Flood Hazard Area Permit.
  - (3) Any fencing that crosses a stream channel must be designed and constructed so that it will break away or collapse to allow discharge of flood waters.
  - (4) On a navigable stream or river a property owner must comply with the Texas Parks and Wildlife Code so that public recreational use is not limited, obstructed, restricted, or interfered with.

### **§5.03. Standards for Subdivision Proposals**

- (A) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with this Chapter and shall be approved by the County Floodplain Administrator prior to issuance of the Development Authorization by the County. Plat specifications and details for submission will be governed by Chapter 705 and other applicable provisions of these Regulations.
- (B) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet the requirements this Chapter.
- (C) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to this Chapter.
- (D) All subdivision plats shall have the Floodplain and Floodway clearly delineated on the plat and, where appropriate, shall have the lowest floor elevations for all lots located within Flood Hazard Areas. Finish floor elevations and floodway will not be required if Floodplain is contained within a drainage easement prohibiting development.
- (E) All subdivision Applications including the placement of manufactured home parks and subdivisions shall include provisions for adequate drainage as required under Chapter 725, to reduce exposure to flood hazards.
- (F) All subdivision Applications including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (G) All subdivision Applications which include land which is encroached by areas of special flood hazard, must include the placement of a permanent benchmark indicating the elevation relative to mean sea level. The benchmark must be located within the platted property, and must be indicated on the subdivision plat. If all floodplain is contained within a drainage easement, a benchmark is not required.

### **§5.04. Standards for Areas of Shallow Flooding (AO/AH Zones)**



Located within the areas of special flood hazard as defined above are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (A) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).
- (B) All new construction and substantial improvements of non-residential structures:
  - (1) have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or,
  - (2) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (C) A Texas registered professional engineer, Texas licensed architect, or, for purposes of satisfying the requirements of 5.04(B)(1) above, a Texas registered professional land surveyor, shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.
- (D) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

#### **§5.05. Floodways**

Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

- (A) Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (B) If Section §735.5.05(A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of the remainder of this Chapter.
- (C) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations,

provided that the community first completes all of the provisions required by Section 65.12.

#### **§5.06. Critical Facilities**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA, preferably outside the 0.2% annual chance floodplain. Construction of new critical facilities may be permissible within the SFHA if feasible alternative sites are unavailable. Critical facilities constructed within the SFHA shall have the lowest floor elevated at least one (1) foot above the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the maximum extent possible.

#### **§5.06. Severability**

If any section, clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Chapter.

#### **§5.07. Penalties for Non-Compliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements is subject to the following penalties:

- (A) CIVIL PENALTY: A person who violates this Chapter is subject to a civil penalty of not more than \$100 for each act of violation and for each day of violation.
- (B) CRIMINAL PENALTY:
  - (1) A person commits an offense if the person violates this Chapter.
  - (2) An offense under this Chapter is a Class C misdemeanor.

Each violation of this Chapter and each day of continuing violation is a separate offense. Any person shall, upon conviction, pay the related fine as specified above for each violation, along with all costs and expenses involved in the case.

#### **§5.08. ENFORCEMENT BY POLITICAL SUBDIVISION:**

- (A) If it appears that a person has violated, is violating, or is threatening to violate this Chapter or a rule adopted by order issued under this Chapter, a political subdivision may institute a civil suit in the appropriate court for:
  - (1) Injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions;
  - (2) The assessment and recovery of the civil penalty; or
  - (3) Both the injunctive relief and the civil penalty.

- (B) On application for injunctive relief and a finding that a person has violated, is violating, or is threatening to violate this Chapter or rule adopted, or order issued under this Chapter, the court shall grant the injunctive relief that the facts warrant.

Nothing herein contained shall prevent Hays County from taking such other lawful action as is necessary to prevent or remedy any violation.

**CHAPTER 736 - RESERVED**

**CHAPTER 737 - RESERVED**

**CHAPTER 738 - RESERVED**

**CHAPTER 739 - RESERVED**

**CHAPTER 740 - RESERVED**



**CHAPTER 741 - RESERVED**

**CHAPTER 742 - RESERVED**

**CHAPTER 743 - RESERVED**

## **CHAPTER 744 - MANUFACTURED HOME RENTAL COMMUNITIES**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern the issuance of Development Authorizations for Manufactured Home Rental Communities within the County.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234.

#### **§1.03. Approval Required Prior to Construction**

Development, including any associated construction of a Manufactured Home Rental Community (MHRC) may not begin before a Development Authorization has been issued by the County. These regulations apply to a manufactured home rental community for which construction is commenced on or after the effective date of these Regulations. Development Authorization for Manufactured Home Rental Communities shall be issued in the form of a Development Authorization.

#### **§1.04. Approval Required Prior to Furnishing Utility Service**

A utility may not provide utility services, including water, sewer, gas, and electric services to a manufactured home rental community subject to a development authorization until the Development Authorization is issued by the Department.

### ***Sub-Chapter 2 - Exemptions***

#### **§2.01. Exempted Manufactured Home Rental Communities**

The following Manufactured Home Rental Communities are exempted from the requirements of this Chapter, as outlined below:

- (A) Manufactured Home Rental Communities consisting of four (4) or fewer spaces or lots;
- (B) Manufactured Home Rental Communities consisting of five (5) or fewer spaces or lots each of which is occupied by an individual who is related to the owner of the Manufactured Home Rental Community within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any space or lot is subsequently offered for rent or lease to the public or is occupied by persons at least one of which is not related to the owner within the third degree by consanguinity or affinity, the requirements of this Chapter apply; or,
- (C) Manufactured Home Rental Communities consisting entirely of individual lots or spaces which are ten (10) acres or larger.

Exempted Manufactured Home Rental Communities must have direct access to a public roadway.

### ***Sub-Chapter 3 - Application Procedures***

#### **§3.01. General Requirements and Application Procedures**

Applications to the Commissioners Court for approval of a Manufactured Home Rental Community pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapters 701 and 711 of these regulations.

#### **§3.02. Fees**

Fees for Applications for Manufactured Home Rental Communities shall be based on the number of lots or rental spaces and shall be as established by the Commissioners Court. Application Fees may include a minimum review fee in addition to the fee per lot.

#### **§3.03. Additional Application Information**

In addition to the items required to be submitted in accordance with Chapters 701 and 711, all Applications for approval of a Manufactured Home Rental Community pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the Department and shall also include the name of the proposed Manufactured Home Rental Community.

#### **§3.04. Communication with Precinct Commissioner**

The Applicant or the Applicant's authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed Manufactured Home Rental Community is located prior to the submission of the Application.

#### **§3.05. Supplemental Information**

In addition to the items required to be submitted with the Application in accordance with Chapters 701 and 711, each Application for a Manufactured Home Rental Community shall be supplemented with the following information:

- (A) A copy of the deed or deeds documenting current ownership of the Subject Property.
- (B) A boundary survey of the proposed Manufactured Home Rental Community, prepared by a Texas licensed professional land surveyor, which identifies the proposed location of all rental spaces, utility easements, drainage easements and floodplain boundaries.
- (C) An Infrastructure Development Plan, prepared by a Texas licensed professional engineer, that details the following information:
  - (1) Existing and proposed public and private roadways, including those designated for general egress/ingress and those designated for emergency access.
  - (2) The means for providing water and wastewater service to the development, including a demonstration of availability for both as required under Chapter 715.
  - (3) A storm water management plan prepared in accordance with Chapter 725.
  - (4) All other documents or reports required pursuant to these Regulations and any associated bonds or letters of credit.

### ***Sub-Chapter 4 - Minimum Standards***

#### **§4.01. Internal Roadways and Storm Water Management Facilities**

All internal roadways and associated storm water management facilities shall be designed and constructed to minimum standards that are reasonably necessary to permit ingress and egress access by fire and emergency vehicles as designed by a Texas licensed professional engineer. The drainage facilities shall not be required to exceed the standards and specifications for subdivisions, as set forth in Chapter 750 of these Regulations.

#### **§4.02. Communities Served by On-Site Sewage Facilities**

All developments to be served by On-Site Sewage Facilities shall comply with the TCEQ Regulations (specifically 30 TAC §285.4, “Facility Planning,” and 30 TAC §285.5, “Submittal Requirements for Planning Materials”) and the Hays County On-Site Sewage Facilities rules.

### ***Sub-Chapter 5 - Requirements Prior to Occupancy***

The Department shall inspect all roadways and associated storm water management structures for compliance with these minimum standards. Tenants may not occupy rental spaces until all construction requirements of the infrastructure plan have been approved and completed.

### ***Sub-Chapter 6 - Public Notice***

#### **§6.01. Notice Required**

All Applications seeking approval from the County for a Manufactured Home Rental Community shall be required to notify the public using posted notice, written notice, and published notice.

#### **§6.02. Posted Notice**

The Applicant shall be required to notify the public upon submission of an Application under this Chapter in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:

NOTICE OF APPLICATION FOR MFG. HOME RENTAL COMMUNITY

The signs shall contain the following notice text:

An application has been filed with HAYS COUNTY to develop a manufactured home rental community on this property. Information regarding the application may be obtained from:

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.

#### **§6.03. Written Notice**

The Applicant shall be required to notify affected political subdivisions and property owners in the proximity of the Subject Property upon submission of an application under this Chapter in accordance with the requirements for Written Notice in §701.9.05. In addition to the items required under §701.9.05, the notice must include, at the minimum, the following information:

- (A) The maximum number of rental units to be located at the subject property;

- (B) The anticipated timetable for initial construction and any anticipated subsequent phases of development, including an estimated population for each phase and at full buildout; and,
- (C) A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.

**CHAPTER 745 - RESERVED**



**CHAPTER 746 - RESERVED**

**CHAPTER 747 - RESERVED**

**CHAPTER 748 - RESERVED**

**CHAPTER 749 - RESERVED**

**CHAPTER 750 - Reserved**

## **CHAPTER 751 - USE OF COUNTY PROPERTIES OR FACILITIES**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern certain activities and improvements on, in, above or under certain County properties or facilities.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 231, 232 and 234.

#### **§1.03. Approval Required**

A Development Authorization is required for any of the activities or improvements associated with any of the designated County properties or facilities, including roadway Right-of-Way. No driveway or utility construction, mail boxes, landscaping or any other encroachment into public right-of-way or easements shall be allowed without first obtaining a Development Authorization from the County.

#### **§1.04. County Property and Facilities Regulated**

These regulations govern all real property owned or operated by the County or held in trust for the public, including but not limited to:

- (A) Real property owned by the County or any subdivision of the County;
- (B) Public roadways, rights-of-way, easements of all kinds and types;
- (C) Facilities and structures that occupy real property and are owned or operated by the County;

#### **§1.05. County Property and Facilities Excluded**

These regulations do not apply to County owned properties or facilities wholly under the operational control of the United States of America, the State of Texas, a political subdivision of the State of Texas, or a special district or entity established by the Texas Legislature.

#### **§1.06. Exceptions for Activities in the Normal Course of County Business**

Nothing in these regulations shall be construed to require the County or any of its employees, agents or contractors to obtain a permit to conduct authorized activities in the normal course of conducting County business.

#### **§1.07. Exceptions for Activities Authorized by Other Jurisdictions**

Nothing in these regulations shall be construed to preclude activities authorized under state or federal law by other governmental entities with jurisdiction in Hays County, including entities with eminent domain. To the extent that the requirements of this Chapter do not conflict with the authorizations issued by such other governmental entities, any use of County property or facilities shall conform to the requirements of this Chapter. In the event of conflicts, the conflicting provisions of this Chapter shall be deemed waived, but the remaining provisions shall remain in full force and effect. Entities that are exempt from the requirement to obtain prior

authorization for use of County facilities or properties shall be required to provide record documents to the County for all County property and/or facilities utilized.

### ***Sub-Chapter 2 - Types of Approvals Authorized***

#### **§2.01. Minor Permit**

Activities which are generally small and routine in nature may qualify for a minor permit. Activities authorized through a minor permit must comply with all established requirements and guidelines. The following activities are specifically recognized as qualifying for a minor permit, if they are in compliance with the conditions stated:

- (A) The installation of mailboxes and/or an address signs along a public roadway, provided that all items projecting above the ground surface along a collector-type roadway are constructed of “break-away” or collapsible materials, as defined in standards published by the Department;
- (B) The installation of individual driveways in public roadways to allow access to previously platted lots or to a single commercial or institutional activity on its own tract, if not on a previously platted lot, provided that the installation complies with standards published by the Department;
- (C) The installation of individual mailboxes, signs, communication antennas fastened to existing structures or other related items located on County property that is not within a public roadway;
- (D) The installation of donated public amenities in a dedicated park; and,
- (E) The installation of memorials, monuments or other related items located on County property that are not within a public roadway.

#### **§2.02. Permits Other than Minor Permits**

Activities that do not qualify for a minor permit, as described above, are required to undergo site development review and obtain a permit under the review process outlined in Chapter 711. The following activities are specifically recognized as requiring a permit under the review process outlined in Chapter 711:

- (A) The installation of mailboxes, signs, and other related items in public collector-type roadways if such items projecting above the ground surface are not constructed of “break-away” or collapsible materials;
- (B) The installation of multiple driveways in public roadways to allow access to a previously platted lot or tract;
- (C) The installation of utility lines on, in, above or under public roadways; and,
- (D) The installation of communications equipment not fastened to existing structures or other related items located on County property that is not within a public roadway.

#### **§2.03. Incorporation into Other Types of Permits**

The County may authorize the use of designated County properties or facilities in conjunction with any other type of Development Authorization issued, provided that such other Development Authorization undergoes the same or more stringent review than required by this Chapter.

### ***Sub-Chapter 3 - Regulated Activities and Improvements***

#### **§3.01. Construction or Land Disturbance**

Approval is required prior to conducting any construction or land disturbance on, in, above, or under any designated County Property.

#### **§3.02. Temporary Structures or Facilities**

Approval is required prior to placing any temporary structures or facilities on, in, above, or under any designated County Property.

#### **§3.03. Permanent Structures or Facilities**

Approval is required prior to placing any permanent structures or facilities on, in, above, or under any designated County Property.

#### **§3.04. Exceptions for Emergency Conditions**

Prior approval of the Commissioners Court is not required for use of designated County property for activities conducted by authorized law enforcement, public safety and emergency services agencies and officers operating within the scope of their duties during an emergency condition. Notice of such use by authorized law enforcement, public safety and emergency services agencies and officers shall be provided to the County as soon as possible. All non-emergency use of designated County property by law enforcement, public safety and emergency services agencies and officers shall require prior approval as outlined in this Chapter.

### ***Sub-Chapter 4 - General Application Procedures***

#### **§4.01. Application Information**

The Department shall develop and make available to the public forms for submitting Applications for use of designated County property under this Chapter. These forms shall provide for the general information requested in Chapter 701, Subchapter 7, as well as the following additional information:

- (A) The type of use or activity for which approval is being requested;
- (B) The name, designation and type of designated County property for which use is being requested;
- (C) The specific location on or within the designated County property for which use is being requested; and,
- (D) A site sketch or other information in sufficient detail to describe the location of the proposed activities, including the location of specific improvements to be constructed (may be attached to the Application form).

#### **§4.02. Fees**

The Commissioners Court shall establish Application and/or recurring usage fees for Applicants requesting use of designated County property. Application fees shall be paid at the time the Application is filed. Where established by the Commissioners Court, recurring usage fees shall be paid by the Applicant, Permittee or assignee on the schedule identified by the Commissioners Court.



### *Sub-Chapter 5 - Minor Permits*

#### **§5.01. General Requirements and Application Procedures**

Upon receipt of an Application for a minor permit, the Department shall evaluate the application to ensure that it complies with the requirements for issuing a minor permit. The Department may publish an abbreviated Application form with only the necessary information required for a minor permit.

#### **§5.02. Minor Permit Review By the Department**

The Department shall review each minor permit submitted and take one of the following actions:

- (A) Where the Department determines that the Application complies with the requirements for a minor permit and the proposed use complies with the requirements of this Chapter, the Department shall issue the minor permit.
- (B) Where the Department determines that the Application either does not comply with the requirements for a minor permit and/or the proposed use does not comply with the requirements of this Chapter, the Department shall issue a written response to the Applicant indicating the proposed use cannot be processed as a minor permit. This written response shall:
  - (1) Indicate that the proposed use will require a Development Authorization;
  - (2) Reference the procedures for obtaining a Development Authorization as outlined in Chapters 701 and 711;
  - (3) Reference the Department's published application forms and any supplemental instructions or guidance documents applicable to a Development Authorization; and,
  - (4) State that proceeding with the prohibited use would be a violation of these Regulations that may subject the Applicant and/or the Property Owner to enforcement by the County.

#### **§5.03. Contents of Minor Permit**

- (A) General Information:

Minor Permits issued by the Department under this Subchapter shall contain the general information required for Development Authorizations outlined in Chapter 701, Subchapter 11.

- (B) Expiration:

Unless otherwise indicated with the minor permit documentation, minor permits shall expire one (1) year from the date of issuance if the activities authorized in the minor permit are not completed. The Department may extend administratively the length of a minor permit for no more than one additional six month term. Expired minor permits are null and void and require a new Application, including application fees.

## ***Sub-Chapter 6 - Application Procedures for Uses Requiring a Development Authorization***

### **§6.01. General Application Processing**

Applications for use of designated County property which do not qualify for a minor permit shall be processed in accordance with the procedures for a Development Authorization outlined in Chapter 711 of these Regulations.

### **§6.02. Communication with Precinct Commissioner**

The Applicant or the Applicant's authorized agent is required to contact the Commissioner(s) in whose precinct(s) the designated County property is located prior to the submission of the Application.

### **§6.03. Written Notice for Certain Uses**

Where the Commissioners Court or the Department determines that other persons holding County use permits may be affected by the proposed use, the Department shall provide the Applicant with a list of potentially affected permit holders. The Applicant shall notify all identified permit holders in accordance with the requirements for Written Notice in §701.9.05. In addition to the items required under §701.9.05, the written notice must include, at the minimum, the following information:

- (A) The type of use or activity for which approval is being requested;
- (B) The name, designation and type of designated County property for which use is being requested;
- (C) The specific location on or within the designated County property for which use is being requested;
- (D) A site sketch or other information in sufficient detail to describe the location of the proposed activities, including the location of specific improvements to be constructed;
- (E) The proposed timeline for commencing the proposed use (including any associated construction activities); and,
- (F) The possible impacts of the proposed use on the existing permit holder's authorized use.

### **§6.04. Posted Notice**

Where the Commissioners Court or the Department determines that the proposed use is likely to result in significant public interest, the Applicant shall be required to notify the public in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:

#### **NOTICE OF APPLICATION TO USE OF COUNTY PROPERTY**

The signs shall contain the following notice text:

An application has been filed with HAYS COUNTY for use of this County Property. Information regarding the application may be obtained from:

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.

### ***Sub-Chapter 7 - General Requirements for Use***

#### **§7.01. Reasonable Use**

Applications for use of designated County property shall be a reasonable use of public property and shall not preclude the reasonable use of the remaining portion of the designated County property.

#### **§7.02. In the Public Interest**

Applications for use of designated County property shall be in the public interest as determined by the Commissioners Court. The provision of public utilities and services shall be deemed to be in the public interest.

#### **§7.03. Public Health, Safety, and the Environment**

- (A) Applications for use of designated County property shall not pose a threat to public health, safety, welfare or the environment. Applicants shall, for use of designated County property, bear the burden of demonstrating that the proposed activities or improvements are protective of public health, safety, welfare and the environment. The Commissioners Court may include such reasonable restrictions on the authorized use as it deems appropriate to public health, safety, welfare or the environment.
- (B) All structures (either permanent or temporary) constructed within public roadway rights-of-way shall conform to the applicable public safety requirements of the Texas Department of Transportation (TXDOT), or other industry standard acceptable to the County. Signage shall conform to TXDOT requirements. Mailboxes shall conform to the requirements of the U.S. Postal Service, TXDOT Standard MB-06, and the AASHTO Standard “A Guide for Erecting Mailboxes on Highways.”
- (C) Utilities placed within County property shall conform to all applicable engineering and regulatory standards, including the County’s standard utility installation specifications.

**CHAPTER 752 - RESERVED**

**CHAPTER 753 - RESERVED**

**CHAPTER 754 - RESERVED**

## **CHAPTER 755 - LAND USE AND LOCATION RESTRICTIONS**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern certain types of land use and the location of certain activities within the County, as stated herein.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapters 234, 243 and 352 and under the Texas Water Code in Chapters 26 and 35.

#### **§1.03. Compliance Required**

The Commissioners Court requires that the regulated land uses and activities be conducted in accordance with the regulations in this Chapter, unless excluded or exempted under State or Federal law.

### ***Sub-Chapter 2 - Definitions Specific to This Chapter***

For the purposes of these Regulations, the following terms shall have the corresponding meaning:

- (A) Automotive Wrecking and Salvage Yard - any person or business that stores three or more wrecked vehicles outdoors for the purpose of dismantling or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.
- (B) Completed Renewal Application - an application that contains all of the information and documents required by this Chapter.
- (C) Demolition Business - a business that demolishes structures, including housing and other buildings, in order to salvage building materials and that stores those materials before disposing of them.
- (D) Flea Market – an outdoor market for selling second hand articles or antiques.
- (E) Interested Party - any person who may be affected by the issuance of a permit pursuant to this Chapter and would include not only owners in fee simple, life tenants, lessees for years, lienholders, easement holders, and residents of a proposed yard, but also any person with these interests in land situation within one thousand (1000) feet of a proposed yard.
- (F) Junk - copper, brass, iron, steel, rope, rags, batteries, tires or other material (other than a wrecked vehicle) that has been discarded or sold at a nominal price by a previous owner of the material.
- (G) Junkyard - a business that stores, buys, or sells materials that have been discarded or sold at a nominal price by a previous owner and that keeps all or part of the materials outdoors until disposing of them.
- (H) Proposed Yard - the land to be occupied by a junkyard or automotive wrecking and salvage yard if a permit is granted pursuant to these rules.

- (I) Recycling Business - a business enterprise that is primarily engaged in the business of:
  - (1) Converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;
  - (2) using raw material products of that kind in the production of new products; or,
  - (3) obtaining or storing ferrous or non-ferrous metals or other materials for a purpose described in this Chapter.
- (J) Sexually Oriented Business – a business enterprise meeting the requirements of Hays County’s Sexually Oriented Business Ordinance, as adopted on June 17, 1997, and as subsequently amended.
- (K) Wrecked Vehicle - a discarded, abandoned, junked, wrecked, or worn-out automotive vehicle, including an automobile, truck, tractor-trailer, or bus, that is not in a condition to be lawfully operated on a public road.

### ***Sub-Chapter 3 - Regulated Activities***

#### **§3.01. Location Restrictions**

The following types of activities are subject to the location restrictions presented in this Chapter, and have the definitions presented in either Chapter 701 or Subchapter 2 of this Chapter:

- (A) Sexually Oriented Businesses; and,
- (B) Construction adjacent to Regulated Roadways.

#### **§3.02. Regulated Land Uses**

The following types of activities are considered Regulated Land Uses and have the definitions presented in Subchapter 2 of this Chapter:

- (A) Automotive Wrecking and Salvage Yards;
- (B) Demolition Businesses;
- (C) Flea Markets;
- (D) Junkyards; and,
- (E) Outdoor Resale Businesses;

#### **§3.03. Regulated Access Controls**

Any institutional or multi-unit residential developments with gates or other structural features to control vehicular or pedestrian access are considered Gated Communities with access controls and are subject to this Chapter.

### ***Sub-Chapter 4 - Location Restrictions***

#### **§4.01. Location Review**

All activities subject to location restrictions under this Chapter shall be reviewed by the Department, in accordance with the procedures presented in Chapter 711. Persons conducting activities subject to these location restrictions are required to submit an Application for review by the Department. The Department may also initiate its own review of activities based on



information obtained directly by County personnel or on information supplied by the public that is confirmed by County Personnel. If the Department determines that the activity is in compliance with the applicable location restrictions, the Department shall issue a Site Development Review indicating that a Development Authorization is not required for the activity.

#### **§4.02. Approval Required**

All activities for which the Department either determines that they are not in compliance with the location restrictions or for which the Department is unable to determine whether they are in compliance with the location restrictions shall require a Development Authorization issued by the County.

#### **§4.03. Sexually Oriented Businesses**

Sexually Oriented Businesses are subject to licensing by the Hays County Sheriff in accordance with the County’s Sexually Oriented Business Ordinance. The Department shall assist the Hays County Sheriff in determining and enforcing the location restrictions identified in that ordinance through conducting a Site Development Review. Except as specifically authorized by the Hays County Sheriff, Sexually Oriented Businesses shall comply with the following location restrictions:

- (A) No Sexually Oriented Business may be located within two thousand (2000) feet of the property line of the following activities, as measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises:
  - (1) A child care facility;
  - (2) A church or place of religious worship;
  - (3) A dwelling;
  - (4) A hospital;
  - (5) A building in which any type of alcoholic beverages are sold;
  - (6) A public building;
  - (7) A public or private park/playscape; or,
  - (8) A school.
- (B) No Sexually Oriented Business may be located within two thousand (2000) feet of another Sexually Oriented Business, as measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

#### **§4.04. Construction Adjacent to Regulated Roadways**

Above-grade construction is prohibited within the building setback lines established for Regulated Roadways, as presented in Table 755.06, below. Building setback lines apply on each side of a Regulated Roadway.

**Table 755.05 – Building Setback Lines (in Feet) for Various Roadway Classifications**

	Required
Roadway Classification	Setback
Country Lane	25
Local Roadway	25
Urbanized Local Roadway	25
Minor Collector	25
Major Collector	50
Minor Arterial	50
Major Arterial	50

### ***Sub-Chapter 5 - Land Use Regulations***

#### **§5.01. Applicability**

The Regulated Land Uses identified in §755.3.02 are subject to regulation by the County in accordance with this Subchapter.

#### **§5.02. Exemptions**

- (A) These rules do not apply to the following:
- (1) A recycling business;
  - (2) A junkyard or an automotive wrecking and salvage yard that is located entirely within a municipality and that is subject to regulation in any manner by the municipality, unless the municipality has adopted these rules; or,
  - (3) A junkyard or an automotive wrecking and salvage yard that legally began operation before June 27, 1988 (the date upon which the initial rules regulating these land uses were adopted by the Commissioners Court).
- (B) A person desiring an exemption from compliance with any requirement of these rules shall file a written request with the Department stating the nature of the exemption requested, the reason that justifies granting the exemption, and any additional information that the Commissioners Court requests. The Department shall notify the Commissioners Court of all requests for exemption within fourteen (14) days of the date on which the request is filed. Within forty five (45) days after the filing of a request, the Commissioners Court shall review the request and notify the person, in writing, of their decision. If the request is denied, the Commissioners Court shall include the reasons for denial in the notice. If the Commissioners Court does not give notice of their decision within forty-five (45) days of receipt of the request, the exemption is automatically granted.

#### **§5.03. Permit Application Procedures**

- (A) General Requirements and Application Procedures:

Applications to the County for a Regulated Land Use permit pursuant to these Regulations are subject to the general application procedures set forth in Chapters 701 and 711.

- (B) Supplemental Information Required for Permit:

In addition to the general application information required under Chapter 701, Subchapter 7, and Chapter 711, Subchapter 4, Applications for permits to operate a facility considered to be a

Regulated Land Use (as defined in §755.3.02) or to expand or change locations shall be made in writing to the Department on a form prescribed by the Department and shall, along with such other information the Department may require, contain the names and mailing address of all schools, churches and any interested parties known to the applicant to want notice of the hearing on the application for the Permit.

(C) Supporting Documents Required for Permit:

If the applicant is not the owner in fee simple of the proposed facility, a properly executed power of attorney or other written evidence of the agency agreement between the applicant and the owner.

(D) Acknowledgement Required for Permit:

The application shall contain the following statements: "Applicant agrees to provide public notices pursuant to Chapter 755 of the Hays County Development Regulations. All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief. Applicant acknowledges that the permit applied for shall be subject to all provisions of the codes and ordinances of Hays County relating to Regulated Land Uses and shall be subject to all provisions of the codes and statutes of the State of Texas."

**§5.04. Notice Procedures**

- (A) In any notice of a hearing pursuant to Subchapter 9 of this Chapter, the Department shall state the nature of the approval sought, the location for which approval is sought, the date, time, and place of the hearing, any additional information the Department may consider necessary, and the right of interested parties to be heard on the questions of approval and conditions to be imposed.
- (B) At least ten (10) days prior to the date set for any hearing pursuant to Subchapter 9 of this Chapter, the Applicant shall provide Written Notice, in accordance with §701.9.08 to the owners of the proposed facility considered a Regulated Land Use and to the schools, churches, and interested parties included in the lists of these groups attached to the application for the permit pursuant to Subchapter 7 of these rules.
- (C) The Department shall require the Applicant to display a copy of a notice of hearing pursuant to Subchapter 9 of Chapter 701 of these Regulations in compliance with the Texas Open Meetings Act, on the site of the proposed facility or expansion or change of location of a permitted facility in a place that is visible from the adjacent roadways or highways. This notice of hearing must be displayed at least ten (10) days before the date set for the hearing.
- (D) The Applicant shall be required to notify the public upon submission of an Application under this Chapter, in accordance with the requirements for Posted Notice in §701.9.04. The signs shall contain the following header text:

NOTICE OF APPLICATION FOR {name of regulated land use from §755.3.02}  
PERMIT

The signs shall contain the following notice text:

An application has been filed with HAYS COUNTY for an {name of regulated land use from §755.3.02} permit for this property. Information regarding the application may be obtained from:

This text shall be followed with the name and contact information of the Department and the tracking number assigned by the Department to the Application.

### **§5.05. Applications and Fees**

The Department shall accept all applications and collect all fees necessary to meet the requirements of this Chapter. All fees collected shall be deposited in the general fund of the County.

### **§5.06. Renewal Application Procedures**

(A) Applications for renewal permits shall be made in writing to the Department on a form prescribed by the Department and shall generally contain the same information as required for an initial permit.

(B) Acknowledgement Required for Renewal Permit

The application shall contain the following statements:

- (1) The location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the initial application.
- (2) The permit has never been revoked and is not suspended or expired on the date of application.
- (3) The facility considered to be a Regulated Land Use is in operation on the date of application for renewal.
- (4) All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief.
- (5) Applicant acknowledges that the permit applied for shall be subject to all provisions of the codes and ordinances of Hays County relating to Regulated Land Uses and shall be subject to all provisions of the codes and statutes of the State of Texas.

### **§5.07. Issuance of Permit**

(A) Initial Permits:

Initial permits may be issued by County upon receipt of the prescribed fee and a completed application only if the Commissioners Court has approved the location of the facility considered to be a Regulated Land Use.

(B) Permits for Increase in Land Area or Change of Location:

Permits for an increase in land area of the location or for changes in location may be issued by the County upon receipt of the prescribed fee and a completed application only if the Commissioners Court has approved the location of the additional area to be used for the increase in land area or the new location of the facility considered to be a Regulated Land Use.

(C) Issuance of Permits:

Under the conditions established in these rules, the Department shall issue permits to all applicants whose applications have been approved by the Commissioners Court in compliance with Subchapter 9 of this Chapter. All permits shall include the certification of the Hays County Clerk, or his authorized agent, that the permit has been approved by the Commissioners Court and the date of approval. All permits shall be originally signed by the Director of the Department or his authorized agent.

(D) Annual Renewal of Initial Permits:

After the initial permit has been issued by the County, the Department shall renew the permit within thirty (30) days after receipt of the prescribed fee and a completed renewal application, provided that the location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the initial application; the permit has never been revoked and is not suspended or expired on the date of application; and the junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.

(E) Annual Renewal of Permits for Increase in Land Area or Change of Location:

After the permit for increase in land area or change of location has been issued by the County, the County shall renew the permit within thirty (30) days after receipt of the prescribed fee and a completed renewal application, provided that the location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the application for increase in land area or a change of location; the permit has never been revoked and is not suspended or expired on the date of application; and the facility considered to be a Regulated Land Use is in operation on the date of application for renewal.

**§5.08. Procedure for Commissioners Court Approval**

(A) Public Hearing:

Prior to approval of any application for a permit pursuant to these rules, the Commissioners Court shall hold a public hearing on the question of approval of the application and conditions to be imposed on the location. At this public hearing, interested parties shall have the right to be heard on the question of approval and conditions to be imposed. The public hearing shall be held within forty-five (45) days of receipt of an application in compliance with §755.5.06.

(B) Notice of Hearing:

The County shall give notice of the hearing on the application as prescribed in Section §755.5.04.

(C) Criteria for Approval:

The Commissioners Court may deny approval of any application for any permit sought pursuant to these rules for the following reasons:

- (1) The location of the proposed facility would be detrimental to the public health, safety, or welfare;
- (2) The location of the proposed facility would create a hazard to the environment;
- (3) The location of the nearest boundary of the proposed facility would be within one thousand (1,000) feet of the nearest property line of property on which there is a church, a school, a park, a hospital, a nursing home, or a residence (single family home, duplex,

apartment, townhouse, or manufactured home), or the nearest boundary of a residential subdivision for which County has approved either a Preliminary Plan or Final Plat;

- (4) The location of the proposed facility would be incompatible with the surrounding development;
- (5) The location of the proposed facility would be detrimental to the economic welfare of Hays County;
- (6) The location of the proposed facility would be within one thousand five hundred (1,500) feet of a lake, river, tributary or pond;
- (7) The location of the proposed facility would be within the one hundred (100) year flood plain; or,
- (8) The applicant has not complied with Subchapter 7 of this Chapter;

(D) Conditions on Approval:

In granting approval of any application for a permit to establish or expand or change location of any facility considered to be a Regulated Land Use within Hays County, the Commissioners Court may impose conditions on the location at which such a facility may operate.

(E) Time for Approval:

The Commissioners Court shall decide whether to grant or deny approval of an application within sixty (60) days of the public hearing on that application and, if this decision is not made within sixty (60) days, the application shall be deemed to have been approved by the Commissioners Court.

### **§5.09. Requirements for Operations**

(A) Commencement of Operations:

A person shall not operate a facility considered to be a Regulated Land Use (as defined in §755.3.02) within Hays County unless that person has a valid, subsisting permit obtained pursuant to these rules.

(B) Expansion of Operation:

A person shall not increase the land area occupied by or change the location of a facility considered to be a Regulated Land Use (as defined in §755.3.02) unless that person has a valid, subsisting permit for the increase in land area or change in location obtained pursuant to these rules.

(C) Compliance with Conditions:

A person granted a permit shall comply with all conditions placed on the location of a facility considered to be a Regulated Land Use (as defined in §755.3.02) by the Commissioners Court pursuant to Subchapter 9 of this Chapter.

### **§5.10. Grounds for Suspension or Revocation of Permit**

(A) Suspension of Permit:

If a facility considered to be a Regulated Land Use is not screened in accordance with the requirements established by the County, the Department may suspend the permit for that facility.

The suspension shall continue until the facility is being operated in compliance with this Chapter and other applicable regulations.

(B) Notice of Suspension:

If the Department suspends the permit of a facility considered to be a Regulated Land Use, the Department shall provide Written Notice of the suspension to the applicant for the suspended permit.

(C) Revocation of Permit:

- (1) If the permit for a facility has been suspended for more than fourteen (14) days and the operation of the facility has not been brought into compliance with this Chapter, the permit shall automatically be revoked and no valid or subsisting permit shall exist for that facility.
- (2) If the applicant has provided any information in the application which is not true and correct, then the permit may be revoked by the Department and, if revoked, no valid or subsisting permit shall exist for that facility.

(D) Notice of Revocation:

If the permit of a facility considered to be a Regulated Land Use is revoked pursuant to these rules the Director shall give notice of that revocation to the applicant for the revoked permit.

(E) Hearing on Suspension and Revocation:

The applicant or current holder of a suspended or revoked permit may have a hearing by the Commissioners Court on the suspension or revocation of the permit if a request for such a hearing is made in writing to the Hays County Judge within thirty (30) days of receipt of the notice of suspension or revocation. The hearing will be set as soon as practicable, but in any event no later than thirty (30) days after receipt of the request for the hearing.

### ***Sub-Chapter 6 - Gated Community Access Control Regulations***

#### **§6.01. Applicability**

The owner or operator of any institutional or multi-unit residential gated community is required to obtain a permit from the County and to comply with the technical requirements outlined below. Nothing in this Subchapter shall be construed to require an institutional or multi-unit residential community to have either vehicular or pedestrian gates. The intent of this Subchapter is to ensure access to the interior of the gated community by law enforcement and emergency services providers.

#### **§6.02. Exemptions and Exclusions**

(A) These rules do not apply to the following gated communities:

- (1) Gated communities that are subject to access control regulation in any manner by a municipality;
- (2) Gated communities which existed on the effective date of this Chapter; and,
- (3) Gated communities consisting entirely of dwelling units that are occupied by an individual who is related to the owner of the gated community within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any

dwelling units are subsequently offered to the public or are occupied by persons none of which are related to the owner within the third degree by consanguinity or affinity, the requirements of this Chapter apply.

- (B) The width and obstruction requirements in Section 755.6.05(D) do not apply to gated communities completed before January 1, 2002, if the requirements cannot readily be met because of space limitations or excessive cost. For purposes of this subsection, \$6,000 per entrance based on the value of the dollar on January 1, 2000, is considered an excessive cost for expanding gate width and achieving an obstacle-free driveway apron or entrance.

### **§6.03. Permit Application Procedures**

- (A) General Requirements and Application Procedures for Initial Permit:

Applications to the County for a permit pursuant to these Regulations are subject to the general application procedures set forth in Chapters 701 and 711.

- (B) Renewal Applications:

Applications for renewal permits shall be made in writing to the Department on a form prescribed by the Department and shall generally contain the same information as required for an initial permit.

### **§6.04. Permit Term, Renewal and Expiration**

- (A) Permits will be issued for an initial term of one (1) year.
- (B) Renewals shall be valid for the term of one (1) or two (2) years, on a schedule established by the Department.
- (C) Both initial and renewal permits issued under this Subchapter shall identify the expiration date.

### **§6.05. Technical Requirements**

- (A) Building Identification:

Each building or structure within a gated community containing one or more dwelling units shall have a separate identification and signage. Signage shall be visible from a distance of one hundred (100) feet and shall have sufficient visual contrast with the building or structure to be visible in both daylight and darkness, taking into consideration the prevailing lighting conditions present at the site. The signage shall be placed so as to be visible from the vehicular driving areas. The building/structure identifications shall be coordinated with the County “911” Coordinator.

- (B) Lockboxes:

Each vehicular gate to the gated community must have a lockbox within sight of the gate and in close proximity outside the gate. If there are one or more pedestrian gates, at least one pedestrian gate must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, or code to open the gate or a key switch or cable mechanism that overrides the key, card, or code that normally opens the gate and allows the gate to be opened manually. If different gates are operated by different keys, cards, or codes, the lockbox must contain:



- (1) Each key, card, or code, properly labeled for its respective gate; or,
- (2) A single master key, card, or code or a key switch or cable mechanism that will open every gate.

Access to a lockbox required by this section shall be limited to a person or agency providing fire-fighting or emergency medical services or law enforcement for the county.

(C) Operation in the Event of Power Failure:

If a gate is powered by electricity, it must be possible to open the gate if the gate loses electrical power. The mechanism for opening the gate in the event of a power failure must be available within the lockbox.

(D) Gate Accessibility Requirements:

- (1) In a gated community that has one (1) or more vehicular gates, at least one vehicular gate must be wide enough for fire-fighting vehicles, fire-fighting equipment, emergency medical services vehicles, or law enforcement vehicles to enter; and at least one driveway apron or entrance from the public right-of-way must be free of permanent obstacles that might impede entry by a vehicle or equipment listed above.
- (2) A pedestrian gate in a gated community must be located so as to provide firefighters, law enforcement officers, and other emergency personnel reasonable access to each building.

**CHAPTER 756 - RESERVED**

**CHAPTER 757 - RESERVED**

**CHAPTER 758 - RESERVED**

**CHAPTER 759 - RESERVED**

**CHAPTER 760 - RESERVED**

## **CHAPTER 761 - ECONOMIC INCENTIVES FOR DEVELOPMENT ACTIVITIES**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern economic incentives given by the County for qualifying activities conducted under or in conjunction with a Development Authorization issued by the County.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under TLGC in Chapter 232.001.

#### **§1.03. Types of Economic Incentives**

Subject to approval of the Commissioners Court, the following types of economic incentives are authorized:

- (A) Rebates on Application fees;
- (B) Rebates on Usage fees;
- (C) Ad valorem tax exemptions; and,
- (D) Fee-in-lieu contributions.

#### **§1.04. Qualifying Activities**

Subject to acceptance by the Commissioners Court, the following types of activities qualify for economic incentives in conjunction with Development Authorizations issued by the Commissioners Court:

- (A) Water conservation features;
- (B) Open space preservation/allocation;
- (C) Low intensity developments;
- (D) Affordable housing;
- (E) Construction of storm water quality management features;
- (F) Rainwater harvesting facilities;
- (G) Construction of groundwater recharge enhancement structures;
- (H) Cedar/ash juniper managed removal plan;
- (I) Boundary street improvements; and,
- (J) Wastewater reuse plumbing to individual lots.

#### **§1.05. Combined Activities**

Multiple qualifying activities of the same or varying types may be incorporated into one (1) project or one (1) Development Authorization.

### ***Sub-Chapter 2 - Application of Economic Incentives By County***

Subject to acceptance by the Commissioners Court, the Applicant may request that portions of the economic incentive rebate be applied in the following manner:

- (A) 50% of rebate may go to a dedicated fund for open space preservation as an offset to any required open space fee-in-lieu requirement.
- (B) \$100 of the County's per lot portion will go the same dedicated fund.

### ***Sub-Chapter 3 - Application and Approval Procedures***

#### **§3.01. Filing with Application for Development Authorization**

At the time of the initial Application for a Development Authorization, the Applicant must identify all proposed components for which a qualifying economic incentive will be requested. This information shall be included as supplemental information in accordance with §701.7.03.

#### **§3.02. Fees**

All fees for applications requesting economic incentives shall be paid at the time the Application is submitted.

#### **§3.03. Design and Cost Estimate Information**

- (A) Structural Improvements:

For any structural improvements to be completed in conjunction with the initial development and for which the Applicant is requesting an economic incentive, the Applicant shall submit a design and cost estimate prepared by a Texas licensed professional engineer. The design and cost estimate information shall be in sufficient detail to allow the Department to evaluate the initial design and cost estimates and to allow the improvements to be verified as conforming to the original design following their construction.

- (B) Non-Structural Improvements:

For non-structural improvements for which the Applicant is requesting an economic incentive, the Applicant shall submit a detailed description and cost estimate in sufficient detail to allow the Department to verify the completion of the non-structural improvements.

#### **§3.04. Inspection**

The Applicant must contact the County Engineer for inspection of all improvements for which an economic incentive is requested.

### ***Sub-Chapter 4 - Rebate Procedures***

#### **§4.01. Documentation**

All economic incentive requests, except donations to the Open Space Preservation Fund, must be accompanied by an invoice certifying actual expenditures

#### **§4.02. Structural Improvements Completed in Conjunction with the Initial Development**

Application fees for structural improvements completed in conjunction with the initial development shall be refunded when those improvements have been verified as complete.



#### **§4.03. Structural Improvements Not Completed in Conjunction with the Initial Development**

Application fees for structural improvements not completed in conjunction with the initial development shall be refunded when those improvements have been verified as complete. Partial refunds may be made based on the percentage completion or the number of units completed.

#### **§4.04. Non-Structural Improvements**

Application fees for non-structural improvements shall be refunded when the County has accrued the benefit from the proposed non-structural improvements.

### ***Sub-Chapter 5 - Incentives for Water Quality Protection Features***

#### **§5.01. Water Quality Protection Features Encouraged**

All Applicants are encouraged to incorporate water quality protection features into the design of proposed developments in the County. Water quality features designed and constructed in accordance with this Subchapter shall qualify for economic incentives in accordance with Chapter 761.

#### **§5.02. Water Quality Protection Design Requirements**

The following design requirements shall apply to Applications seeking the economic incentives authorized in Chapter 761 for water quality protection features:

- (A) Applications seeking the full value of the economic incentives shall incorporate sufficient non-structural and structural best management practices to achieve no net increase in both dissolved and suspended pollutant loadings as a result of the requested development activities.
- (B) The Commissioners Court may authorize partial economic incentives for water quality protection measures which include a lower design threshold. The Applicant shall describe in the supplemental information the proposed design standard in sufficient detail to allow the Department to determine the relative level of water quality protection when compared to the “no net increase” design standard.
- (C) All water quality protection measures shall be designed in accordance with the procedures outlined in one or more of the following:
  - (1) The Lower Colorado River Authority “Water Quality Management Technical Criteria”;
  - (2) The Texas Commission on Environmental Quality “Edwards Aquifer Technical Guidance Manual”;
  - (3) The City of Austin “Drainage Criteria Manual” and “Environmental Criteria Manual”; or,
  - (4) A water quality design procedure or criteria developed by a municipality within whose extra-territorial jurisdiction the project is located.
- (D) The Application shall be supplemented with information detailing the design of the water quality protection measures and shall include pollutant loading calculations for the pre-development and post-development conditions. The site design shall include the necessary combinations of water quality protection measures to achieve the design

standard utilized for the site. Water quality protection measure designs and pollutant loading calculations shall be prepared by a Texas licensed professional engineer.

**§5.03. Stream Offsets/Buffer Zones**

Stream offsets or buffer zones shall be naturally vegetated corridors along streams and watercourses which provide for filtering or sequestering pollutants, localized recharge to contribute to sustained base flow, flood flow attenuation, habitat for various plant and animal communities, and accept sheet flow from developed areas to minimize the adverse impacts of runoff. The following shall apply to stream offsets and/or buffer zones incorporated into Applications seeking the economic incentives authorized in Chapter 761:

- (A) Stream buffer zones should be designated using the centerline of the active channel, with the required offsets and total widths based on the contributing drainage area, in accordance with the following table:

Stream Contributing Area (Acres)	Width/Offset (feet, each side of centerline)	Total width (feet)
32 to 120	100	200
120 to 300	150	300
300 to 640	200	400
Greater than 640	300	600

- (B) In circumstances where some natural stream features extend outside the minimum recommended buffer areas, the buffer width should be expanded based on the following conditions. These conditions should be evaluated on both sides of the stream independently, and adjustments applied to the affected areas only:
  - (1) Where a 100-year floodplain or flood hazard area has been identified, as outlined in Subchapter 3 of this Chapter, the buffer zone shall be expanded to encompass the 100-year floodplain plus 25 feet beyond the edge of the floodplain.
  - (2) When federal jurisdictional wetlands extend beyond the edge of the required buffer, the buffer zone shall be adjusted to be the extent of the wetland plus a 25-foot zone extending beyond the wetland edge.
- (C) Where there is a “high bank” on one or both sides of the stream, consisting of a canyon, cliff, bluff or other similar feature, the width of the buffer zone may be reduced to accommodate this condition. If the Applicant documents that the top of the “high bank” extends more than three (3) feet above the elevation of the 100 year floodplain, the buffer zone offset on that side may be adjusted downward, but must extend at least 25 feet horizontally beyond the edge of the “high bank.”
- (D) Development within the buffer zone should be avoided when possible. Other than critical crossings, utilities and transportation infrastructure shall not be located within stream buffer zones. Where the Department determines utility and transportation crossings to be critical to the development, the number and locations of these crossings shall be minimized. Where crossings are located, their design should incorporate protections from future damage to the stream from these crossings. Structural BMPs are specifically prohibited from being located within stream buffer zones.

#### **§5.04. Control of Hydrologic Regime**

The hydrologic regime represents the total volume and the rate, timing and duration of storm water runoff flows. To address adverse impacts, the following measures are required to control the rate and volume of all storm water discharges from proposed developments seeking economic incentives:

- (A) Site designs shall limit flows into the receiving stream consistent with the volume from the two (2) year, three (3) hour duration rainfall by incorporating:
  - (1) Adequate retention capacity so that no storm water runoff is discharged for the design storm; or
  - (2) Adequate detention/retention facilities so that the discharge of storm water is limited to a rate equivalent to the volume of runoff from the two (2) year, three (3) hour duration rainfall evenly distributed over a twenty four (24) hour period.
- (B) Drainage facilities providing discharge routes for flood flows should be sized to maintain flood flow velocities below erosive levels, up to the twenty five (25) year, three (3) hour duration. All discharge points from ponds or other accumulation areas must provide for energy dissipation prior to exiting the site, in order to minimize erosion.

#### **§5.05. Non-Structural Best Management Practices**

The Applicant may utilize non-structural best management practices (BMPs) to achieve the water quality protection design for the proposed development. Non-structural BMPs may be used in conjunction with structural BMPs. Non-structural BMPs recognized under this Subchapter for the purposes of pollutant loading demonstrations include:

- (A) Landscaping, Xeriscaping plans and deed restrictions;
- (B) Integrated pest management plans;
- (C) Integrated fertilizer/nutrient management plans; and,
- (D) Roadway sweeping activities.

Additional non-structural BMPs may be utilized at the discretion of the Department.

#### **§5.06. Structural Best Management Practices**

The Applicant may utilize structural best management practices (BMPs) to achieve the water quality protection design for the proposed development. Structural BMPs may be used either alone or in conjunction with non-structural BMPs. Structural BMPs recognized under this Subchapter for the purposes of pollutant loading demonstrations include:

- (A) Structural BMPs identified in any of the design criteria standards identified in Section §725.6.02; and,
- (B) Structural BMPs for which the Applicant has submitted data from a independent third-party indicating satisfactory performance and which has been determined by the Department as suitable to accomplish the design objectives.

**CHAPTER 762 - RESERVED**

**CHAPTER 763 - RESERVED**

**CHAPTER 764 - RESERVED**

## **CHAPTER 765 - CONSERVATION DEVELOPMENT**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern activities associated with the design and development of a Conservation Development, including construction of infrastructure and utilities, the construction and dedication of features to the County for maintenance and operation, and documenting and recording the requirements for these activities based on the approval of the Commissioners Court.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, 234, 241, 242 and 352 and under the Texas Water Code in Chapters 26 and 35.

#### **§1.03. Designation of Conservation Development Not Required**

No application for a Development Authorization shall be required to be a Conservation Development. Applications meeting the criteria or requirements set forth in this Chapter and other applicable Chapters shall be approved as a Conservation Development.

#### **§1.04. Approval Required Prior to Construction**

Approval of the Commissioners Court is required prior to the construction and development of a Conservation Development, unless excluded or exempted under State law or as exempted below.

#### **§1.05. Purpose and Intent**

The Commissioners Court has authorized special provisions for Conservation Development to accomplish the following objectives:

- (A) To allow for greater flexibility and creativity in the design of developments;
- (B) To encourage the permanent preservation of open space, ranch and agricultural lands, woodlands and wildlife habitat, natural resources and including aquifers, water bodies and wetlands, and historical and archeological resources; to promote interconnected greenspace and corridors throughout the community;
- (C) To protect community water supplies;
- (D) To encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- (E) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner;
- (F) To facilitate the provision of community services in a more economical and efficient manner;
- (G) To foster stewardship of the land and wildlife in the County; and,

- (H) To preserve the vestiges of central Texas rural and natural character remaining in Hays County.

### **§1.06. Applicability of Other Chapters**

An application for a Conservation Development shall meet all other applicable Chapters of these Regulations, except as specifically waived, exempted or modified under this Conservation Development Ordinance.

#### ***Sub-Chapter 2 - Definitions Specific to This Chapter***

For the purposes of this Chapter the following terms shall have the corresponding meaning:

- (A) Canyon Rimrock - a rim rock that is adjacent to a waterway and has a rock substrate that:
  - (1) has a gradient that exceeds 60 percent for a vertical distance of at least four feet; and,
  - (2) is exposed for at least 50 feet horizontally along the rim of the canyon.
- (B) Commercial Development - all development other than conservation space, and single-family and duplex residential development.
- (C) Conceptual Land Plan - a land plan(s) that is in a preliminary form and is prepared by a qualified professional land planner, landscape architect or professional engineer and intended primarily to illustrate the development of the Subject Property and identify the potential conservation space and development areas of the Subject Property based on an ecological assessment and the provisions of this Chapter.
- (D) Conservation Development (CD) - a subdivision meeting the criteria set out in this Chapter.
- (E) Conservation Space - land to be set aside and preserved from development as residential or commercial development within a conservation development. Conservation Space shall be classified as Primary or Secondary Conservation Areas or as Recreation Space.
- (F) County Open Space Plan - a plan or set of community goals or guidelines adopted by Hays County to identify desirable areas or features for conservation within protected open space and establishing criteria for identifying, configuring and acquiring open space within Hays County. Examples of protected open space include land protected by conservation easement or fee simple ownership such as parkland, preserve land, open space parkland, conservation space, etc.
- (G) Critical Environmental Features - features that are of critical importance to the protection of environmental resources, and include bluffs, canyon rim rocks, cave, sinkholes, springs and wetlands.
- (H) Ecological Assessment - a study and evaluation of the property submitted for subdivision approval that is conducted by qualified environmental professionals, such as ecologists, biologists, geologists and archeologists, providing the information and covering the features identified in the Conservation Development Design Manual, and summarized in a report that includes several items including a site analysis map and narrative explanation also detailed in the Conservation Development Design Manual.



- (I) Ecological Assets Management Plan - a written document that provides a plan to be followed in maintaining, improving and/or restoring the conservation space and its wildlife and meets the criteria provided in this Chapter.
- (J) Historic Preservation Buffer - a buffer area established in order to maintain or protect an historic or culturally important site or land area, including archeological sites, from development and the unwanted impacts from adjacent human occupation or activities. The buffer is to remain undeveloped and should be maintained or restored to the maximum natural vegetative state practicable. An historic buffer commences at the most external edge or boundary of the historic structure or site and extends away from and surrounding the structure or site for the distance specified in this Chapter.
- (K) Impervious Cover - roads, parking areas, buildings, swimming pools, rooftop landscapes and other impermeable construction covering the natural land surface. Impervious Cover shall be expressed as a percentage of the gross area of the Subject Property or the specific land area under consideration.
- (L) Integrated Pest Management Plan - a written management plan that identifies the integrated pest management (IPM) practices to be used on or for the Subject Property. IPM is a continuous system of controlling pests (weeds, diseases, insects or others) in which pests are identified, action thresholds are considered, all possible control options are evaluated, and selected control(s) are implemented. Control options, which include biological, cultural, manual, mechanical and chemical methods, are used to prevent or remedy unacceptable pest activity or damage. Choice of control option(s) is based on effectiveness, environmental impact, site characteristics, worker/public health and safety, and economics. The goal of an IPM system is to manage pests and the environment to balance benefits of control, costs, public health and environmental quality. IPM takes advantage of all appropriate pest management options.
- (M) Preferred Development Area - an area or location originally identified through a County sponsored community planning process and is intended to attract and accommodate higher or more intense levels of development and most particularly commercial development. These areas should also be seen as potential locations for the provision of centralized local government services. A Preferred Development Area must be accepted or designated as such by the Commissioners Court and may vary in size and intended levels of development from centers for neighborhood retail and/or multifamily development to regional multi-use town center locations.
- (N) Primary Conservation Area(s) – land used for setbacks, set-asides, buffers or preserve areas to be preserved generally as undeveloped and undisturbed or minimally disturbed land under or in response to a state or federal statute or under a Development Authorization issued by a Reviewing Authority or other authorized state or federal agency. Such setbacks, buffers or preserve areas are commonly required along or around critical environmental features. Local criteria and requirements for Primary Conservation Areas are found in the subdivision and/or environmental protection provisions of land development regulatory jurisdictions.
- (O) Property Owners Association or Owners Association - a not for profit organization established for the purpose of owning and managing the common land or amenities of a

- property; membership in a Property Owners Association may be comprised of more than one property.
- (P) Recreation Space - those portions of the Conservation Space that may be used for active recreational uses such as ball fields, playgrounds, and golf courses and their immediately adjacent landscaped or maintained areas. Active recreational uses are generally identified as requiring either (1) the use of a playing field or playground; (2) the participation of group or team participants; (3) the installation of buildings or other structures; or (4) the substantial modification or grading of an area of land.
  - (Q) Safe Harbor Permit - an agreement negotiated with the U.S. Fish and Wildlife Service which documents and protects baseline occurrences of endangered species on a property and protects the landowner from prosecution for further take above this baseline condition due to impacts associated with a specific project. For final policy and associated regulations, see Federal Register, June 17, 1999.
  - (R) Scenic Preservation Buffer - a buffer area established primarily to maintain the general rural or natural appearance of a property, land area or roadway. The buffer is to remain undeveloped unless otherwise allowed and should be maintained or restored to the maximum natural vegetative state practicable. A scenic preservation buffer commences at the outermost boundary of the property or adjacent right-of-way and extends into the property for the distance specified in this Chapter.
  - (S) Scenic View - a view of beauty and/or picturesque quality usually containing natural scenery or unique features or character.
  - (T) Scenic View Preservation Plan - a written document that identifies key scenic viewing locations/areas and their associated scenic views and identifies those views and/or view sheds to be protected and proposes development guidelines and/or restrictions intended to assure they do not become obstructed or obscured by development. The guidelines and restrictions are to be included in covenants, conditions, restrictions or agreements imposed on a property through a Development Authorization. The plan also indicates the location of buffers or setbacks deemed necessary to preserve scenic views and view sheds, particularly from public roads, and describes management practices including tree trimming and vegetation clearing proposed to maintain the scenic views.
  - (U) Secondary Conservation Area(s) – land set-aside or preserved in addition to Primary Conservation Areas in order to meet the conservation space characteristics and requirements under this Chapter.
  - (V) Significant and/or Meaningful Features - those features or areas identified in an ecological assessment and prioritized as most important for preservation per criteria or requirements under this Chapter and have the following general characteristics:
    - (1) Ecological features essential to the health of the ecosystem, including human life. Such items would include features that if lost, destroyed or negatively impacted would directly or cumulatively pose a risk to the surrounding water and air quality and/or survival of plant, wildlife and human communities. Examples of significant and/or meaningful features/areas include functioning surface water systems and groundwater recharge features, wetlands, mature closed canopy woodlands, native grass lands, etc.

- (2) Historic and archeological sites, features or artifacts irreplaceable, unique and important to the character of the community. Such items include prehistoric occupation and burial sites and pioneer home or business/activity sites. These items can help in establishing a sense of place or origin and are often seen as contributing to the well-being, health and quality of life of a community.
- (W) Trail(s) - a designated pedestrian way providing community connectivity and/or access to nature areas having minimal improvements necessary for health, safety and property protection and intended primarily for passive recreational use such as hiking, biking or walking.
- (X) View Shed - an area of such size, depth and breadth as to afford panoramic scenic views from multiple locations along its perimeter and/or from accessible locations within its interior.

### ***Sub-Chapter 3 - Application Procedures***

#### **§3.01. General Requirements and Application Procedures**

Applications to the Commissioners Court for Conservation Developments pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapter 701 of these regulations.

#### **§3.02. Fees**

Applications for Conservation Developments shall be assessed a refundable fee upon submission, as established by the Commissioners Court. Fees paid shall be refunded to the Applicant upon the issuance of a Development Authorization for the Conservation Development and the submission of a written request for refund submitted to the Department. Application fees for Conservation Development shall not be refunded if the Application is withdrawn or if the Application is issued a Development Authorization that is not for a Conservation Development. Any fees submitted with an Application for Conservation Development may be credited toward any other required fees in the event that a Development Authorization is issued that is not for a Conservation Development.

#### **§3.03. Types of Conservation Developments**

The following types of Development Authorizations authorized under these regulations shall be applicable to Conservation Developments:

- (A) Subdivisions, processed in accordance with Chapter 705;
- (B) Site Development Plans, processed in accordance with Chapter 711; and,
- (C) Voluntary Conservation Easements, processed in accordance with this Chapter.

The County shall review and process the application as appropriate to the development activities included in the Application and as otherwise prescribed by these Regulations and applicable law.

#### **§3.04. Applicability of Other Chapters**

Except as specifically modified in this Chapter, the Applicant, Owner and Permittee for a Conservation Development is subject to the other applicable Chapters from these Regulations.

### **§3.05. Supplemental Information**

In addition to the items required to be submitted with the Application in accordance with Chapter 701 and the applicable Chapter(s) under which the Conservation Development authorization is being requested, the Applicant shall submit the following information:

- (A) A conceptual land plan for the proposed Conservation Development;
- (B) A list of all legal documents necessary to preclude or limit development within the Conservation Development, including any restrictive covenants, conservation restrictions, Conservation Easements, excess conservation space/impervious cover transfer documents, and variance or waiver or exemption requests/applications, with an accompanying narrative explaining the document's general provisions, purpose or justification;
- (C) An Ecological Assessment report, including the following:
  - (1) A site analysis map;
  - (2) A site context map;
  - (3) The most recently available aerial photos, but not older than four years old, of the site and of the context area; and,
  - (4) Narrative discussion or explanations adequate to fully identify, explain and inform as to the nature of the land's natural features and the rationale for their prioritization for protection within a conservation space area and meeting the terms or requirements identified in the Conservation Development Design Manual;
- (D) Scenic view preservation plan;
- (E) Owners association documents including any architectural and landscaping design standards or restrictive covenants meeting the requirements of this Chapter;
- (F) An Integrated Pest Management Plan meeting the requirements of this Chapter;
- (G) An Ecological Assets Management Plan meeting the requirements of this Chapter;
- (H) Draft of the Conservation Development Agreement meeting the terms or requirements identified in the Conservation Development Design Manual; and,
- (I) All additional information required by the Department to demonstrate compliance with the Conservation Development concept.

### **§3.06. Communication with Precinct Commissioner**

The Applicant or the Applicant's authorized agent for a Conservation Development is required to contact the Commissioner(s) in whose precinct(s) the proposed Subdivision is located prior to the submission of the Application.

### **§3.07. Pre-submittal Meeting**

An Application for a Conservation Development may not be accepted by the Department for filing before the Applicant meets with the Department in a pre- submittal meeting. The purpose of the pre-submittal meeting is to acquaint the Department with the proposed development, including its ecological assessment and conceptual land plan(s), and to provide the Applicant

with preliminary staff comments and to identify major concerns or needs for additional information. The Applicant shall prepare the required ecological assessment and conceptual land plan for the proposed Conservation Development and furnish these documents to the Department at least fifteen (15) days prior to the pre-submittal meeting. If requested, the Applicant shall meet with designated representative(s) of the Department at the Subject Property for a site tour prior to, or in conjunction with, the pre-submittal meeting.

#### ***Sub-Chapter 4 - Development Authorizations for Conservation Developments***

##### **§4.01. Types of Conservation Developments**

The following types of Development Authorizations authorized under these regulations shall be applicable to Conservation Developments:

- (A) Subdivisions; and,
- (B) Manufactured Home Rental Community permits.

##### **§4.02. Privation of Incentives**

- (A) Any incentive provided under this Chapter or other rights and benefits to an Applicant, Permittee, or Owner, or a prorated portion thereof, may be withheld at the discretion of the Department until:
  - (1) A copy of the written confirmation of the construction or installation, and operation if applicable, of all resource conservation measures necessary to meeting the provisions of this Chapter is provided to the Department; or,
  - (2) A resource conservation verification inspection has been completed by the Department, including the correction of the cause(s) for failure to pass a resource conservation verification inspection.
- (B) Failure by the County to provide incentives as stipulated in a Conservation Development Agreement and subject to the agreement's notice and cure provisions will entitle the Subject Property to be developed under the County rules and regulations in effect on the effective date the agreement.

#### ***Sub-Chapter 5 - Conservation Development Design***

##### **§5.01. Conservation Space**

A Conservation Development shall include a minimum percentage of land to be designated as permanent Conservation Space, not to be further subdivided or developed, meeting the conditions specified below:

- (A) A minimum of fifty percent (50%) of the Subject Property's total acreage shall be designated as a single contiguous land area, lot or tract of Conservation Space that conforms to the following design criteria:
  - (1) A Conservation Space shall not be less than one hundred and fifty (150) feet in width at any point except for scenic or historic preservation buffers as allowed in this Subchapter below;
  - (2) A Conservation Space shall not be less than ten (10) acres in size;

- (3) Impervious Cover within or adjoining the Conservation Space plus a continuous or surrounding undisturbed buffer of at least twenty-five (25) feet from the Impervious Cover's external most edge shall not be included in calculating or meeting the Conservation Space requirements of this Chapter;
  - (4) Areas within rights-of-way, access easements, utility easements or any other granted property right or dedication that allows the alteration or disturbance of land or vegetation of the property plus a continuous or surrounding undisturbed buffer of at least twenty-five (25) feet from the potential alteration or disturbance right's external most edge shall not be included in calculating or meeting Conservation Space requirements;
  - (5) Adequate access to the Conservation Space by way of Public Roadways or usable access easements not less than twenty (20) feet in width will be dedicated to the public for use by the County and the Permittee;
  - (6) Scenic or Historic Preservation Buffer areas connected to Conservation Space and having a consistent width of at least one-hundred and fifty (150) feet may be included in the Conservation Space acreage if it also meets the other Conservation Space requirements of this Chapter;
  - (7) Scenic or Historic Preservation Buffer areas disconnected from Conservation Space or having any portion less than one-hundred and fifty (150) feet in width may account for up to five percent (5%) of the Conservation Space acreage requirement of this Chapter; and,
  - (8) The Conservation Space requirements of this Chapter may be met through the transfer of excess Conservation Space from another property as provided in Subchapter 9 of this Chapter and under such transfer requirements or guidelines as may be established by the County.
- (B) No more than fifty percent (50%) of the Conservation Space requirement of §765.3.01(A) above is to be land that is mandated to be preserved as Primary Conservation Area.
- (C) The Conservation Space shall be designed to include the Significant and/or Meaningful Features for preservation through an Ecological Assets Management Plan submitted with or prior to the Conservation Development Application. The Ecological Assets Management Plan shall allocate as Conservation Space at least seventy-five percent (75%) of the Significant and/or Meaningful Features or area identified in the Ecological Assessment as requiring preservation.
- (D) The design of a Conservation Space may be adjusted or modified by the County through a variance without exceeding the applicant's proposed conservation space total acreage or materially reducing the proposed net economic benefit to the applicant from development of the property as a Conservation Development for any of the following reasons:
- (1) To include preferred ecological or cultural features;
  - (2) To maximize the ecological value of habitat areas;
  - (3) To improve the connectivity of the Conservation Space with current or potential conservation and open space on adjacent or contiguous land;
  - (4) To reduce Conservation Space fragmentation and provide for or improve the connectivity of Conservation Space within the Conservation Development;

- (5) To provide for or improve the alignment and continuity of design of the Conservation Space;
  - (6) To provide for or improve the efficiency and effectiveness of managing the Conservation Space;
  - (7) To provide for or improve the sustainability of the Conservation Space and protect it from undesirable or unmanaged access and use; or,
  - (8) To adjust or correct for unintended consequences arising from conflicts between provisions of the Conservation Development Ordinance and other governmental requirements.
- (E) All Conservation Space within a Conservation Development must be designated in a Conservation Easement or other appropriate legal instrument that governs subsequent subdivision or development of the Conservation Space in perpetuity. These legal instruments shall address the following issues:
- (1) Identification of the person that will exercise the rights under the Conservation Easement;
  - (2) Identification of allowable future uses of the property subject to the Conservation Easement and any prohibitions on development activities necessary to comply with the intended uses and these Regulations; and,
  - (3) Any financial arrangements made between the parties to ensure compliance with the requirements of the easement and these Regulations.

#### **§5.02. Scenic and Historic Preservation Buffers**

A Conservation Development shall include Scenic and Historic Preservation Buffers of undisturbed and undeveloped land with the following characteristics:

- (A) Boundary roadways adjacent to the Subject property and roadways within the Subject Property identified in a regional transportation plan approved by the County or identified as Arterials or Major Collectors under Chapter 721 of these Regulations shall have the following Scenic Preservation Buffers on the Subject Property:
  - (1) At least fifty (50) feet for single-family or duplex development; and,
  - (2) At least seventy-five (75) feet for commercial development;
- (B) The perimeter of the Subject Property not adjacent to the roadways identified in §765.3.02(A) above shall have a Scenic Preservation Buffer of at least fifty (50) feet;
- (C) A preserved historic or archeological site that is determined to be a Significant and/or Meaningful Feature shall have an Historic Preservation Buffer of at least one hundred (100) feet;
- (D) Limited development within a Scenic Preservation Buffer is allowed for approved directional or entry signs, underground utilities, trails, drainage facilities and driveways or access drives that run perpendicular to boundary roadways or the property's perimeter;
- (E) Natural vegetative cover within a Scenic or Historic Preservation Buffer shall be retained or restored to the maximum extent practicable and Scenic Preservation Buffers along

boundary roadways shall be landscaped with native trees or other vegetation so as to obscure the property's buildings and other structures to the maximum extent practicable;

- (F) Scenic or Historic Preservation Buffers shall not be included in any lot intended for residential or commercial development; and,
- (G) Wastewater disposal or application is prohibited in Historic Preservation Buffers, but is allowed in Scenic Preservation Buffers, if otherwise in compliance with these Regulations.

### **§5.03. Ecological Assets Management Plan**

Conservation Space within a Conservation Development must be managed and maintained under an approved Ecological Asset Management Plan that meets the standards and criteria established in this Chapter.

### **§5.04. Impervious Cover**

- (A) Impervious cover within the Subject Property of a Conservation Development shall conform to the following criteria:
  - (1) For Subject Property within the Edwards Aquifer Recharge Zone, impervious cover existing or to be developed shall not exceed fifteen percent (15%);
  - (2) For Subject Property outside of the Edwards Aquifer Recharge Zone impervious cover existing or to be developed shall not exceed twenty percent (20%);
  - (3) For the purposes of this Chapter, Impervious Cover shall be calculated on a gross site area basis in accordance with the TCEQ "Edwards Aquifer Technical Guidance Manual," the LCRA "Highland Lakes Ordinance, Water Quality Management Technical Manual," or other industry standard procedure acceptable to the County;
  - (4) For the purposes of this Chapter, Trails within a Conservation Space shall not be considered as Impervious Cover;
  - (5) For the purposes of this Chapter, historic or archeological structures or their remnants and stone walls shall not be considered as Impervious Cover; and,
  - (6) The Impervious Cover requirements of this section may be met through the transfer of excess impervious cover from another property as provided in Subchapter 9 of this Chapter and under such transfer requirements or guidelines as may be established by the County.

### **§5.05. Conservation Roadway and Driveway Design Standards**

The roadway standards in Chapter 721 shall apply to Conservation Developments under this Chapter.

### **§5.06. Requirements for Property Owners Associations**

Property owners association covenants, conditions and restrictions required by this Chapter shall be adopted and enforced for all Conservation Developments approved under this Chapter.



## ***Sub-Chapter 6 - Resource Conservation***

### **§6.01. Energy Conservation**

- (A) All new residential construction within the property shall be designed and built to achieve at least a fifteen percent (15%) energy use savings above the State of Texas Energy Code requirements or shall be in attainment of the minimal standards of the Environmental Protection Agency's Energy Star program.
- (B) All new commercial development construction within the property shall be designed and built to achieve at least a twenty percent (20%) energy use savings above the State of Texas Energy Code requirements.

### **§6.02. Water Conservation**

The following water conservation provisions shall be incorporated into the building and landscaping designs of the Conservation Development:

- (A) All new construction within a Conservation Development shall be designed and built to achieve at least fifteen percent (15%) indoor water use savings above the Environmental Performance Standards for Plumbing Fixtures, Chapter 372 of the Texas State Health and Safety Code or the plumbing or fire code requirements of the Reviewing Authority, whichever is more stringent;
- (B) Unless otherwise approved by the County, plumbing fixtures and/or their installation shall meet the following:
  - (1) Toilets shall be selected from the City of Austin, Texas, Water Conservation Program Rebate Toilets list; and,
  - (2) Total flow rate for all shower heads installed in a shower enclosure shall not exceed 2.75 gallons of water per minute;
- (C) All installed landscaping and landscape irrigation systems shall be installed to meet the criteria or requirements in the Conservation Development Design Manual;

### **§6.03. Materials Conservation**

All new construction (building envelope, framing and flooring) within the property shall be constructed of at least twenty percent (20%) recycled or reclaimed content material or materials manufactured from renewable resources.

### **§6.04. Alternative Conservation Standards**

- (A) New residential construction in a Conservation Development shall satisfy the energy, water and materials conservation requirements of this Chapter if they meet standards generally established to achieve the conservation levels identified above that are issued by the following entities or programs:
  - (1) National Association of Home Builders (NAHB) Green Building Guidelines or an NAHB approved Texas program;
  - (2) U.S. Green Building Council, LEED Homes Program, as finally adopted;
  - (3) City of Austin, Austin Electric Green Building Program Residential Two Star Rating;

- (4) Green Globes Environmental Assessment and Rating System; or
- (5) Green building programs approved or sponsored by the Texas Association of Builders or by the local land development regulatory jurisdiction.
- (B) New commercial construction in a Conservation Development shall satisfy the energy, water and materials conservation requirements of this Chapter if they meet the standards generally established to achieve the conservation levels identified above that are issued by the following entities or programs:
  - (1) U.S. Green Building Council, LEED certification;
  - (2) City of Austin, Austin Electric Green Building Program for Commercial Buildings.
  - (3) Green building programs approved or sponsored by the local land development regulatory jurisdiction.

#### **§6.05. Conservation Effort Verification**

- (A) Applicant and or the Permittee shall submit calculations showing building design and/or proposed installations of resource conserving materials, fixtures, appliances and equipment to meet the resource use reduction requirements of the above corresponding conservation standards, guidelines and/or requirements of this Chapter;
- (B) At or prior to the purchase or final acceptance of any new construction by a Permittee, the developer or builder of the new construction shall certify to said Permittee in writing the construction or installation, and operation if applicable, of all conservation measures necessary to meeting the provisions of this Chapter in the new construction. The certification shall be signed and dated by the final owner as their acceptance and confirmation of the construction, installation and operability of the conservation measures.
- (C) The County shall retain the right to verify the construction or installation, and operation if applicable, of any and all conservation measures proposed or planned in order to meet the provisions of this Chapter through a building inspection up to twelve months from the date of original occupancy of any said building.

### ***Sub-Chapter 7 - Preferred Development Areas***

#### **§7.01. Designation of Preferred Development Areas**

The provisions of this Subchapter shall relate to Conservation Developments in Preferred Development Areas. The Department shall maintain and publish the locations of Preferred Development Areas designated by the Commissioners Court.

#### **§7.02. Commercial Development as Conservation Development**

Notwithstanding any other provisions of this Chapter, commercial development shall be considered a Conservation Development if it is within a preferred development area and meets the following provisions:

- (A) The requirements for Conservation Space as outlined in Subchapter 3 of this Chapter may be modified as follows:

- (1) The minimum area designated as a single contiguous land area, lot or tract of Conservation Space shall be equal to thirty percent (30%) of the Subject Property's total acreage;
  - (2) A Conservation Space shall not be less than one hundred and fifty (150) feet in width at any point except for scenic or historic preservation buffers as allowed in this Subchapter below;
  - (3) A Conservation Space shall not be less than two (2) acres in size;
  - (4) The Conservation Space requirements of this Subchapter may be met through the provision of Conservation Space on another property at a location within a Preferred Development Area as provided in Subchapter 9 of this Chapter and under such transfer requirements or guidelines as may be established by the County;
  - (5) The conservation space requirements of this section may be met through the transfer of excess Conservation Space from other property as provided in Subchapter 9 of this Chapter and under such transfer requirements or guidelines as may be established by the County; and,
  - (6) The buffer requirements of this section may be waived by the County if the Conservation Space is provided in a commons, community plaza, park or town square within the Subject Property.
- (B) The requirement for the Ecological Assets Management Plan as outlined in Subchapter 3 of this Chapter may be modified as follows:
- (1) The Ecological Assets Management Plan shall allocate as Conservation Space at least fifty percent (50%) of the Significant and/or Meaningful Features or area identified in the Ecological Assessment as requiring preservation;
  - (2) For Conservation Space provided outside of the Subject Property's Preferred Development Area, the Ecological Assets Management Plan shall allocate as Conservation Space at least seventy-five percent (75%) of the Significant and/or Meaningful Features or area identified in the Ecological Assessment as requiring preservation; or,
  - (3) For Conservation Space provided in a common or community plaza, square, green or park within the Subject Property, the Ecological Assets Management Plan shall allocate as Conservation Space at least twenty five percent (25%) of the Significant and/or Meaningful Features or area identified in the Ecological Assessment as requiring preservation.
- (C) The requirements for Impervious Cover as outlined in Subchapter 3 of this Chapter may be modified as follows:
- (1) For Subject Property within the Edward Aquifer Recharge Zone, Impervious Cover existing or to be developed shall not exceed thirty-five percent (35%); or,
  - (2) For Subject Property outside the Edwards Aquifer Recharge Zone, Impervious Cover existing or to be developed shall not exceed sixty-five percent (65%).

### ***Sub-Chapter 8 - Conservation Development Agreement***

#### **§8.01. Agreement Required**

The Permittee and the Owner shall enter into a Conservation Development Agreement with the County prior to or simultaneous with the issuance of the Development Authorization by the County. For Conservation Developments, a Development Authorization issued by the County shall not be effective until said Conservation Development Agreement is signed and recorded in the Official County Records. The Conservation Development Agreement shall commit the property to be developed only as a Conservation Development under the terms of this Chapter and shall contain such other conditions as are mutually acceptable to the Permittee, Owner, and the County. Said agreement shall entitle the Permittee and the Owner, their assigns and successors to development under the conditions of this Chapter, unless expired.

#### **§8.02. Agreement Allowed**

An Owner who wishes to assure their property's future development is in compliance with the provisions of this Chapter, may, without applying for a Development Authorization, enter into a Conservation Development Agreement with the County. Said agreement shall entitle the property Owner, their assigns and successors to development under the conditions of this Chapter, to the same degree as a Conservation Development that is issued a Development Authorization. Acceptance of a Conservation Development Agreement by the County shall entitle the property covered by the agreement to be developed as a Conservation Development in accordance with the development regulations and process requirements in effect on the date the agreement is filed in the Official County Records.

#### **§8.03. Agreement to Run With Land**

A Conservation Development Agreement approved by the County and a property Owner shall run with the land and shall only be amended with the approval of the Commissioners Court. Said agreement shall be recorded in the Official Records of the County.

### ***Sub-Chapter 9 - Off-site Transfers for Conservation Development***

The following procedures govern the transfers of Conservation Space, Impervious Cover and other authorized Transfer Commodities used in conjunction with Development Authorizations for Conservation Development issued under this Chapter.

#### **§9.01. Transfer Commodities**

The following items shall qualify as transfer commodities for the purposes of this Chapter:

- (A) Conservation Space in excess of that required under this Chapter; and,
- (B) Unutilized Impervious Cover, up to the limits specified in this Chapter.

#### **§9.02. Origin Sites Within the Jurisdiction of These Regulations**

- (A) A Subject Property that is located in Hays County within the jurisdiction of these regulations and outside of a Preferred Development Area that is approved as a Conservation Development with available transfer commodities may transfer credit for such available transfer commodities to other properties in Hays County that are within the same watershed or are contiguous to the Subject Property.

- (B) A Subject Property that is located in Hays County within the jurisdiction of these regulations and within a Preferred Development Area that is approved as a Conservation Development with available transfer commodities may transfer credit for such available transfer commodities only to other properties in Hays County that are within the same designated Preferred Development Area.
- (C) A Subject Property that is located in Hays County that is approved as a Conservation Development that conveys available transfer commodities to another property in Hays County or another location must document such conveyance within the Record Documents.
- (D) If the conveyance of available transfer commodities from a property within the jurisdiction of the County has been authorized in a Development Authorization, and upon the written request of an Applicant, Owner or Permittee, the Department may issue a statement to other persons indicating that such conveyance has been authorized.

**§9.03. Origin Sites Outside the Jurisdiction of These Regulations**

- (A) An Applicant may request the conveyance of transfer commodity credit from a property outside the jurisdiction of these regulations in the following instances:
  - (1) The property from which the transfer commodities are conveyed is within the same watershed or contiguous to the Subject Property; and,
  - (2) The Applicant provides documentation that the regulatory entities having jurisdiction over land development activities for the originating tract are aware of the nature and quantity of the transfer commodities being conveyed and that they do not object to such transfer.
- (B) Approvals for the conveyance of transfer commodities from origin sites outside the jurisdiction of these regulations is solely at the pleasure of the Commissioners Court. The County is in no way obligated to accept such transfers.
- (C) If the conveyance of available transfer commodities from a property outside the jurisdiction of the County has been authorized in a Development Authorization, the Department shall forward notice of the approval of such conveyance to the regulatory entities having jurisdiction over land development activities for the originating tract for which documentation has been supplied by the Applicant.

**CHAPTER 766 - RESERVED**

**CHAPTER 767 - RESERVED**

**CHAPTER 768 - RESERVED**



**CHAPTER 769 - RESERVED**

**CHAPTER 770 - RESERVED**

## **CHAPTER 771 - DEVELOPMENT AGREEMENTS**

### ***Sub-Chapter 1 - Applicability***

#### **§1.01. General Requirements**

This Chapter shall govern the negotiation and use of development agreements between the County and persons seeking Development Authorizations from the County.

#### **§1.02. Legal Authority**

Legal Authority for adopting and enforcing the regulations in this Chapter is granted to the County under Texas Local Government Code (TLGC) in Chapters 232, 233, 234, 241, 242 and 352 and under the Texas Water Code in Chapters 26 and 35.

#### **§1.03. Purpose and Intent**

The Commissioners Court has authorized special provisions for Development Agreements to accomplish the following objectives:

- (A) To allow greater flexibility and creativity in the design of developments;
- (B) To allow the County to provide incentives for desired development conditions that exceed the legal authority of these Regulations;
- (C) To allow the County to enforce land use and development regulations other than those presented in these regulations;
- (D) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner;
- (E) To facilitate the provision of community services in a more economical and efficient manner;
- (F) To include other lawful terms and considerations that the parties deem appropriate; and,
- (G) To allow for phased development.

#### **§1.04. Development Agreement Not Required**

No Applicant requesting a Development Authorization from the County shall be required to utilize a Development Agreement. However, the Development Agreements authorized under this Chapter are intended to be voluntary agreements between the County and an Applicant or Permittee and will be implemented through one or more Development Authorizations.

#### **§1.05. More Restrictive Agreement Allowed**

An Owner who wishes to establish terms for their property's future development that are more restrictive than those contained in these Regulations may enter into a Development Agreement with the County to enforce these restrictions. Said agreement shall subject the property Owner, their assigns and successors to the more restrictive development terms under the conditions of the approved Development Agreement, to the same degree as an issued Development Authorization. Acceptance of a Development Agreement by the County for the purpose of restricting development shall require the property covered by the agreement to be developed in accordance with the terms of said agreement. Restrictive Development Agreements will require the filing of an easement, the rights of which shall be held by the County, in the Official County

Records. Nothing in this section shall be construed to authorize development activities that are not in compliance with state and federal law. This provision is specifically intended to be used in conjunction with the transfer of development rights, credits or commodities from one property to another, where the origin site (site from which the development rights or credits are taken) is located within Hays County, regardless of the location of the destination property.

### **§1.06. Applicability of Other Chapters**

An Application for a Development Authorization that is subject to a Development Agreement shall meet all other applicable Chapters of these Regulations, except as specifically waived, exempted or modified under the applicable Development Agreement.

## ***Sub-Chapter 2 - Application and Approval Procedures***

### **§2.01. General Requirements**

Applications to the County for approval of a Development Agreement pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapter 701 of these Regulations.

### **§2.02. Application and Review Fees**

The Commissioners Court may establish Application and review fees for Development Agreements, as set forth in Chapter 701 of these Regulations.

### **§2.03. Legal Form of Agreement**

The Department shall coordinate the legal form of Development Agreements with the Hays County Criminal District Attorney's office, or such other authorized legal representative as may be designated by the Commissioners Court. The Department may draft and publish a standardized legal form for a Development Agreement. The drafting, publishing or existence of such standardized legal form shall not create any legal obligation for the County in relationship to any particular agreement being considered. Each such agreement being considered for approval by the County shall be reviewed by the Hays County Criminal District Attorney's office, or such other authorized legal representative as may be designated by the Commissioners Court.

## ***Sub-Chapter 3 - Contents of the Development Agreement***

Development Agreements used in conjunction with the issuance of Development Authorizations shall address the following issues:

### **§3.01. Parties to the Agreement**

The Permittee and the Owner(s) of the Subject Property must be parties to the Development Agreement with the County. The County may require such other persons to be party to the Development Agreement as the County deems are necessary to ensure that the development activities are conducted in accordance with the Development Authorization and the Development Agreement. Unless approved by the Commissioners Court, a Development Agreement is valid only by and between the original parties to the agreements, and creates no third party rights or contracts with persons who are not parties. Requests to transfer must be submitted in writing to the Department and may only be approved by the Commissioners Court.

### **§3.02. Responsibility of the Parties**

By executing a Development Agreement with the County, the Permittee, Owner and other parties agree to be bound by the terms of the Development Agreement and any related Development Authorizations, including any special provisions incorporated by the parties to the Development Agreement.

### **§3.03. Application Information**

Development Agreements shall contain the following information from the Application documents:

- (A) The legal names of the Applicant, Permittee, Owner and any other parties to the Agreement.
- (B) The property location and description information included in the Application for the Subject Property to which the Development Agreement applies.
- (C) The reference identifier issued by the Department for the Application to which the Development Agreement applies.

### **§3.04. Hold Harmless**

Once a Development Agreement has been approved, the parties to the Development Agreement shall hold harmless the County and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of the activities authorized in the Development Agreement.

### **§3.05. Responsibility for Permitted Activities**

Once approved, the Permittee shall be responsible for complying with the terms of the Development Agreement.

### **§3.06. Special Provisions**

The Commissioners Court may incorporate reasonable special provisions into any Development Agreement to ensure compliance with these Regulations, and protection of public health, safety, welfare and the environment. Such special provisions shall be based on any of the requirements of these Regulations or on the County's established legal authority.

### **§3.07. Expiration**

Unless otherwise indicated within the Development Agreement, said agreement shall expire two (2) years from the date of approval by the Commissioners Court if none of the activities authorized in the Development Agreement have commenced within that timeframe. Expired Development Agreements are null and void.

### **§3.08. Notice of Other Regulatory Programs**

To the extent that the Department is aware of other applicable regulatory programs, the Department may incorporate into a Development Agreement notices of the Permittees responsibility to comply with such other regulatory programs, in accordance with Subchapter 11 of Chapter 701.

### ***Sub-Chapter 4 - Approval and Modification of Development Agreements***

#### **§4.01. Approval by Commissioners Court**

Approvals of Development Agreements under these regulations shall be in the form of an ordinance passed by the Commissioners Court agreeing to the terms of such Development Agreement and authorizing the County Judge to execute the agreement on behalf of the County. The Court may also include in the approving ordinance another duly authorized representative, in lieu of the County Judge, to execute the agreement on behalf of the County.

#### **§4.02. Signatories on Behalf of Parties**

Signatories that execute a Development Agreement on behalf of other parties shall be duly authorized to execute. If the signatory on behalf of a party is not the actual party, the signatory shall furnish all necessary documentation to evidence that they are authorized to execute the document on behalf of the party and have the authority to bind the Party to the terms of the Development Agreement. Such documentation shall be of a legal form acceptable to the County, including a power of attorney, a resolution issued by the party's governing body, or other appropriate legal documentation.

#### **§4.03. Recording of Agreement**

A Development Agreement approved by the Commissioners Court in conjunction with a Development Authorization shall not be effective until said Development Agreement is executed by all parties and is recorded in the Official County Records.

#### **§4.04. Modifications to Agreement**

Modifications, amendments and other changes to a Development Agreement shall only be authorized with the approval of the Commissioners Court.

### ***Sub-Chapter 5 - Public Notice***

#### **§5.01. Notice Required**

This sub-chapter shall apply to all Applications that include a Development Agreement.

#### **§5.02. Combined Notice**

Public notices required under this sub-chapter may be combined with any other public notices required under these Regulations or otherwise, provided such combined notice includes all of the items required under this sub-chapter.

#### **§5.03. Contents of Notice**

In addition to the applicable items required under Subchapter 9 of Chapter 701, the Written Notice and Published Notice required under this Chapter must include the following information:

- (A) The date, time, and location where the Commissioners Court will consider the proposed Development Agreement;
- (B) The identification of the parties to the proposed Development Agreement;
- (C) Any provisions in the proposed Development Agreement that authorize development activities that would not otherwise be authorized under these Regulations; and,

(D) Identification of the items and corresponding costs in which the County will participate.

**§5.04. Written Notice**

After the date the Department posts the Development Agreement for consideration by the Commissioners Court, the Applicant shall notify affected political subdivisions and property owners in the proximity of the Subject Property prior to the Commissioners Court's consideration of a Development Authorization under this Chapter in accordance with the requirements for Written Notice in §701.9.05.

**§5.05. Published Notice**

After the date the Department posts the Development Agreement for consideration by the Commissioners Court, the Applicant shall publish notice prior to the Commissioners Court's consideration of a Development Authorization under this Chapter in accordance with the requirements for Published Notice in §701.9.09.

**CHAPTER 772 - RESERVED**



**CHAPTER 773 - RESERVED**

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**CHAPTER 797 - RESERVED**

**CHAPTER 798 - RESERVED**

## **CHAPTER 799 - REFERENCE DOCUMENTS**

### ***Sub-Chapter 1 - General Requirements***

#### **§1.01. Availability**

The Department shall acquire and maintain copies of all reference documents utilized in conjunction with or referenced within these Regulations. These documents shall be made available for inspection by the public at no charge during normal business hours at location(s) designated by the Department. The Department may also make these documents available to the public using whatever means it may deem appropriate and as required by federal, state or local law, including posting on any electronic medium maintained or used by the County.

#### **§1.02. Updates**

Unless specifically indicated otherwise, it is the intent of the Commissioners Court that the latest edition or update of each document be utilized in conjunction with these Regulations.

#### **§1.03. Compliance with Copyright Restrictions**

Certain reference documents utilized may be subject to copyright restrictions. The Department shall respect applicable copyright restrictions and may not allow copying of copyrighted materials. All copyrighted reference material referenced within these Regulations and within the possession of the County shall be made available for inspection by the public as outlined above.

#### **§1.04. Fees for Copying and/or Reproduction**

The Commissioners Court shall establish and the Department shall collect the established fees for copying and/or reproduction of reference documents.

### ***Sub-Chapter 2 - County Technical and Administrative Documents***

#### **§2.01. Availability**

The Department shall make available for inspection by the public at no charge copies of the County reference documents listed below. These documents shall also be made available to the public at no charge by posting on an electronic medium maintained or used by the County.

#### **§2.02. Application and Guidance Documents**

The Department shall make available to the public the following adopted County application and guidance documents, utilized in conjunction with these Regulations. One (1) hard copy shall be provided at no charge to each person requesting a copy. Additional hard copies may be subject to fees.

- (A) Application Forms
- (B) Conservation Easement Standard
- (C) Development Agreement Standard
- (D) Digital Data Submittal Requirements
- (E) Fees and Charges
- (F) Financial Assurance Mechanism Standards

- (G) Minimum Lot Size and OSSF Offset Tables
- (H) Preferred Development Areas
- (I) Plat Note and Certification Standards
- (J) Public Notice Requirements
- (K) Roadway Requirements Table

### **§2.03. Technical Manuals, Plans and Specifications**

The Department shall maintain the following adopted County technical manuals, plans and specifications, utilized in conjunction with these Regulations: Copies of these documents may be obtained by paying the established fees.

- (A) Conservation Development Design Manual
- (B) Erosion and Sedimentation Controls Manual
- (C) Habitat Conservation Plan
- (D) Open Space Plan
- (E) Roadway Construction Specifications

## ***Sub-Chapter 3 - Statutes, Regulations and Ordinances***

### **§3.01. Availability**

The Department shall make available for inspection by the public at no charge copies of all statutes, regulations and ordinances of other governmental entities that are referenced in these Regulations. Copies of these documents shall be made available to the public at no charge either by posting the actual documents or links to the documents on an electronic medium maintained or used by the County. Copies of these documents may be obtained by paying the established fees.

### **§3.02. Federal and State Statutes and Regulations**

The Department shall make available the following federal and state statutes and regulations, utilized in conjunction with these Regulations:

- (A) U.S. Endangered Species Act of 1973
- (B) U.S. Coastal Barrier Resources Act
- (C) U.S. Flood Insurance Program Regulations
- (D) U.S. Water Pollution Control Act
- (E) Texas Water Code,
- (F) Texas Health and Safety Code
- (G) Texas Local Government Code
- (H) Texas Occupations Code (TOC)
  - (1) Texas Engineering Practice Act (TOC Chapter 1001)
  - (2) Texas Architectural Practice Act (TOC Chapter 1051)

- (3) Texas Geoscience Practice Act (TOC Chapter 1002)
- (4) Texas Sanitarian Practice Act (TOC Chapter 1953)
- (5) Texas Professional Land Surveying Practices Act (TOC Chapter 1071)
- (I) Texas Property Code
- (J) Texas Public Information Act

### **§3.03. TCEQ Regulations**

The Department shall make available the following TCEQ regulations, utilized in conjunction with these Regulations:

- (A) 30 TAC 213 Edwards Aquifer Rules
- (B) 30 TAC 230 Water Availability
- (C) 30 TAC 285 On-Site Sewage Facilities
- (D) 30 TAC 290 Public Water Systems
- (E) 30 TAC 293 Groundwater Conservation Districts
- (F) 30 TAC 294 Priority Groundwater Management Areas
- (G) TCEQ Construction Site Storm Water Permitting Program
- (H) TCEQ Municipal Separate Storm Sewer System (MS4) Permitting Program

### **§3.04. Local Ordinances**

The Department shall make available the following local ordinances, utilized in conjunction with these Regulations:

- (A) Buda Water Quality Ordinance
- (B) Dripping Springs Water Quality Ordinance
- (C) Kyle Water Quality Ordinance
- (D) San Marcos Environmental Ordinances
- (E) LCRA Highland Lakes Watershed Ordinance

### ***Sub-Chapter 4 - Standards and Guidance Documents***

The Department shall make available the following reference standards and guidance documents, utilized in conjunction with these Regulations: Copies of these documents shall be made available to the public at no charge either by posting the actual documents or links to the documents on an electronic medium maintained or used by the County. Copies of these documents may be obtained by paying the established fees, subject to applicable copyright restrictions.

- (A) American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets
- (B) American Water Works Association (AWWA) Residential End Uses of Water
- (C) City of Austin, Texas, Standards:

- (1) Drainage Criteria Manual
- (2) Electric Green Building Program
- (3) Environmental Criteria Manual
- (D) Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps and Flood Insurance Rate Maps
- (E) Green Globes Environmental Assessment and Rating System
- (F) Lower Colorado River Authority (LCRA) “Water Quality Management Technical Criteria”
- (G) National Association of Home Builders (NAHB) Green Building Guidelines
- (H) National Sanitation Foundation (NSF)/American National Standards Institute (ANSI):
  - (1) Standard 40
  - (2) Standard 46
- (I) Texas Commission on Environmental Quality “Edwards Aquifer Technical Guidance Manual”
- (J) Texas Department of Transportation Standards:
  - (1) Manual on Uniform Traffic Control Devices
  - (2) Standard MB-06
  - (3) Survey Manual
- (K) Texas Water Development Board (TWDB) Manual on Rainwater Harvesting
- (L) U.S. Green Building Council, LEED Homes Program

