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FOR ACTION

**SUBDIVISION AND MANUFACTURED HOME
RENTAL COMMUNITY REGULATIONS**

FOR

KINNEY COUNTY, TEXAS

EFFECTIVE DATE: AUGUST 26, 2024

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ARTICLE 1 -- ADMINISTRATIVE PROVISIONS

§ 1.1 Enactment.

- (A) **County and Governing Body.** Kinney County, Texas (“**County**”) is a duly organized and operating county of the State of Texas, and the Kinney County Commissioners Court (“**Commissioners Court**”) is the governing body of the County.
- (B) **Declaration.** The County, acting by and through its Commissioners Court, hereby declares that these **Subdivision and Manufactured Home Rental Community Regulations for Kinney County, Texas (“Regulations”)** are lawfully enacted, approved, and adopted, and shall be enforced pursuant to and in compliance with the express and implied authority herein described.

§ 1.2 Public Purposes.

- (A) **Identification.** These Regulations are enacted, approved, and adopted, and shall be enforced to accomplish the following worthwhile public purposes:
- (1) The Regulations shall govern plats and subdivisions of land, as well as manufactured home rental community (“**MHRC**”) development, within the unincorporated area of Kinney County, Texas to promote the health, safety, morals and general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county, and further, to prevent colonias or other substandard development.
 - (2) The Regulations shall ensure that adequate plats, plan, design and planning procedures, water, sewer, septic, and on-site sewer facilities (“**OSSF**”), and water and wastewater utility and transportation infrastructure are provided in the unincorporated area of the county.
 - (3) The Regulations are reasonably enacted, approved, and adopted, and shall be enforced, among other things, to: (a) fulfill an obligation mandated by federal and/or state law; (b) regulate development in an area designated under law as a federal or state floodplain; (c) regulate sewer and OSSF facilities; (d) prevent waste; (e) protect the rights of owners of interests in groundwater; (f) prevent subsidence; (g) provide a response to a real and substantial threat to public health and safety, said response being designed to significantly advance said purpose and not to impose a greater burden than is necessary to achieve said purpose; (h) regulate water safety; and (i) prevent the imminent destruction of property or injury to persons from flooding within a floodplain established by a federal or state flood control program, and enacted to prevent the flooding of buildings intended for public occupancy, as well as other buildings and property.
- (B) **Accomplishment.** The approval, adoption, and enforcement of the Regulations shall

accomplish or substantially advance all public purposes herein described.

§ 1.3 Conditions Precedent and Notice.

- (A) **Conditions Precedent.** All notice and conditions precedent for the lawful approval, adoption, and enforcement of the Regulations have been accomplished.
- (B) **Notice.** Any notice or document submission to the County required by the Regulations shall be in writing and delivered by the United States Postal Service (by certified mail), or alternatively, by courier, or hand-delivery, and in either case, with proof of delivery to the County established by a delivery receipt or other document. The County’s contact official and address regarding notice or document submissions required by the Regulations are identified as follows:

Contact Official:
County Judge
Kinney County, Texas

Business Office Address:
Kinney County Courthouse
501 South Ann Street
Brackettville, Texas 78832
Telephone: 830-563-2401

Mailing Address:
P.O. Box 348
Brackettville, Texas 78832

§ 1.4 Effective Date. The effective date (“**Effective Date**”) of the Regulations is August 26, 2024.

§ 1.5 Partial Invalidity. Should any part of the Regulations, or the application or enforcement thereof, be determined or adjudged invalid by any court, tribunal, administrative agency, or governmental office, the remainder of the Regulations shall remain fully effective, in force, and operable.

§ 1.6 Headings. The separate headings contained in the Regulations are for reference and convenience only and shall not limit or otherwise affect in any way the meaning of the Regulations.

§ 1.7 ETJ Regulation. Pursuant to §§ 232.0013 and 232.022(c-1) of the Texas Local Government Code, the authority of the County to regulate plats or subdivisions of land by these Regulations in the extraterritorial jurisdiction (“**ETJ**”) of a municipality located in Kinney County, Texas is subject to any applicable limitation prescribed by an active, written interlocal governmental agreement between the County and the municipality under

Chapter 242 of the Texas Local Government Code and Chapter 791 of the Texas Government Code. Land in a municipality's ETJ is not considered to be in the jurisdiction of the County for purposes of these Regulations if the municipality and the County have entered into an active, written interlocal governmental agreement (pursuant to the authority herein described) that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

§ 1.8 Adopted Authority. The following legal authority, without limitation, and the express and implied regulatory powers therein granted to the County, are hereby approved and adopted by the County to support the interpretation, application, use, and enforcement of these Regulations: TEX. CONST. art. 5, § 18; 42 U.S.C. §§ 4001-4027; 44 CFR Ch. I (Subch. B, Parts 59-60); TEX. HEALTH & SAFETY CODE Chs. 341, 343, 364, 366; TEX. LOC. GOV'T CODE Chs. 232 (Subchs. A, B, E, and Z) 233, 235, 242, 247; TEX. LOC. GOV'T CODE §§ 212.013-.016, 232.028-029, 232.0032, 232.001-.011, 232.021-232.045, 232.101-.110, 232.901, 247.001-.006; TEX. PROP. CODE Chs. 12, 13; TEX. TRANSP. CODE Chs. 201, 251, (including §§ 201.619, 251.003, 251.008, 251.016, 251.051-.059; TEX. WATER CODE Ch. 16 (Subchs. I, J); 30 TAC §§ 230.1-230.11; 31 TAC §§ 364.1-364.72; the County's active flood damage prevention orders or other floodplain management regulations; the County's active sewer, septic, or OSSF orders or regulations; and all other authority described or recited in the Regulations. The aforesaid authority constitutes the active authority in effect on the Effective Date of these Regulations; however, should that authority be amended or revised after the Effective Date by a legislative, administrative, or governing body, please refer to the amended or revised authority to support the interpretation, application, use, and enforcement of these Regulations.

ARTICLE 2 – DEFINITIONS, INTERPRETATION, AND APPENDIX

§ 2.1 Word Usage and Special Definitions.

- (A) **Common Usage.** Words used in the Regulations shall be interpreted according to their common usage or meaning in order to result in the most reasonable application. The current, enacted, and enrolled version of each statute herein described is incorporated by reference for all purposes.
- (B) **Special Definitions.** Unless otherwise designated, the following special definitions shall apply whether the term or phrase appears in capital letters or in bold, italicized, or underlined print:
- (1) **“Applicant”** shall mean the person or business entity signing the Plat or MHRC Application as the Applicant.
 - (2) **“Border County Rules”** shall mean the platting requirements applicable to certain subdivisions in Kinney County, Texas, as described in Chapter 232, Subchapter B, of the Texas Local Government Code and applicable to a county on or near an international border, as described in §§ 3.2-3.21 of these Regulations.

- (3) **“Business day”** shall mean a day other than a Saturday, Sunday, or holiday recognized by the County.
- (4) **“Colonias”** shall mean substandard, generally (but not always) impoverished rural subdivisions or other developments that lack basic utilities, drainage, and other infrastructure;
- (5) **“Commissioners Court”** or **“Court”** shall mean means the Commissioners Court of Kinney County, Texas.
- (6) **“Common Promotional Plan”** shall mean any plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is: (a) contiguous or part of the same area of land; or (b) known, designated, or advertised as a common unit or by a common name.
- (7) **“County”** shall mean Kinney County, Texas (including its elected officials, appointed officials, employees, agents, and representatives), a duly organized and operating county of the State of Texas, with the southwest boundary of said county being located in the Rio Grande River on the international boundary existing between the United States of America and Mexico.
- (8) **“County Clerk”** or **“District-County Clerk”** shall mean the District-County Clerk of Kinney County, Texas officially serving in a dual role as a district and county clerk as authorized by law, with his: (a) current business office address and telephone being -- Office of the District-County Clerk, Kinney County, Texas, Kinney County Courthouse, 501 South Ann Street, Brackettville, Texas 78832 (telephone 830-563-2521, Extension 3); and (b) mailing address being P.O. Box 9, Brackettville, Texas 78832.
- (9) **“County Judge”** shall mean the County Judge of Kinney County, Texas, with his: (a) current business office address and telephone being -- Office of the County Judge, Kinney County, Texas, Kinney County Courthouse, 501 South Ann Street, Brackettville, Texas 78832 (telephone 830-563-2401); and (b) current mailing address being P.O. Box 348, Brackettville, Texas 78832.
- (10) **“Day”** shall mean a calendar day unless otherwise designated as a Business Day.
- (11) **“Developer,” “Owner,” or “Subdivider”** shall mean the fee simple owner of record (or his authorized agent): (a) of the land which is the subject of the subdivision or MHRC development; and (b) proposing to divide or dividing said land to constitute a subdivision or MHRC. “Developer,” “Owner,” and “Subdivider” are synonymous as used in these Regulations. For purposes of these Regulations, only the record and fee simple Owner of the subdivision or MHRC development land (and specifically not the agent thereof) may properly execute and

- acknowledge a plat or MHRC Infrastructure Development Plan, as described in these Regulations.
- (12) **“Development”** shall mean any actual or proposed man-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or the storage of equipment or materials.
- (13) **“Drinking water”** shall mean all water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.
- (14) **“Engineer”** shall mean a person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act. Also, when these Regulations require a matter to be performed according to or in compliance with “standard engineering practice,” that phrase shall be interpreted to mean standard engineering practice in Texas.
- (15) **“ETJ”** shall mean the extraterritorial jurisdiction of an incorporated municipality pursuant to Texas law.
- (16) **“FDIC”** shall mean the Federal Deposit Insurance Corporation.
- (17) **“Floodplain”** shall mean: (a) any area in the 100-year floodplain that is susceptible to being inundated by water from any source or that is identified by the Federal Emergency Management Agency (**“FEMA”**) under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127) or NFIP; or (b) if said floodplain has not been identified by FEMA, any area subject to a 1% or greater chance of flooding in any given year.
- (18) **“Kinney County Standard Subdivision Rules” or “County Standard Rules”** shall mean the Kinney County Standard Subdivision Rules, as described by §§ 3.23-3.29 of these Regulations, which shall apply to a subdivision type in the unincorporated area which does not qualify for regulation pursuant to the Border County Rules or Model Subdivision Rules described in these Regulations.
- (19) **“Lease”** shall include an offer to lease.
- (20) **“Lot”** shall mean a parcel into which land that is intended for residential or other use is divided.
- (21) **“Lot of Record”** shall mean: (a) a lot, the boundaries of which were established by a plat recorded in the office of the District-County Clerk before September 1, 1989,

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

- (22) **“Manufactured Home”** shall mean: (a) a manufactured home or mobile home as defined by § 1201.003, Texas Occupations Code; (b) any other type of mobile home; and (c) any trailer, vehicle, camper, or recreational vehicle designed for use as a dwelling or for the overnight accommodation or lodging of a person.
- (23) **“Manufactured Home Rental Community” or “MHRC”** means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as a residence, as defined by § 232.007 of the Texas Local Government Code.
- (24) **“Minimum State Standards”** shall mean the minimum standards of the State of Texas set out for: (a) adequate drinking water by or under § 16.343 of the Texas Water Code or other state authority; (b) adequate sewer and/or septic/OSSF facilities by or under § 16.343 of the Texas Water Code, Chapter 366 of the Texas Health and Safety Code, or other state authority; or (c) the treatment, disposal, and management of solid waste and litter by or under Chapters 361 through 365 of the Texas Health and Safety Code or other state authority.
- (25) **“Model Subdivision Rules” or “Model Rules”** shall mean the Model Subdivision Rules described in § 16.343 of the Texas Water Code, §§ 232.023 and 232.030 of the Texas Local Government Code, 31 TAC §§ 364.1-364.72, and § 3.22 of these Regulations.
- (26) **“NFIP”** shall mean the National Flood Insurance Program pursuant to federal law, including: (a) the National Flood Insurance Act pursuant to Sections 4001-4027, Title 42 of the United States Code; and (b) 44 CFR Ch. I, Subch. B, Parts 59, 60.
- (27) **“OSSF”** shall mean an on-site sewage facility (and includes a septic system), as defined in rules and/or regulations adopted by TCEQ, including but not limited to 30 TAC Chapter 285.
- (28) **“Plat”** shall mean: (a) a map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments; (b) a plat required by the Regulations; and (c) map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the County records and prepared as described in the Regulations.

- (29) **“Plat Application”** shall mean the County’s Subdivision Plat Application Form described in **Appendix/Exhibit A** of the Regulations.
- (30) **“Platted”** shall mean a plat recorded in an official plat record on file with the office of the District-County Clerk.
- (31) **“Purchaser”** shall include purchasers under executory contracts for conveyance of real property.
- (32) **“Regulations”** shall mean these Subdivision and Manufactured Home Rental Community Regulations for Kinney County, Texas (including the Appendix).
- (33) **“Sell”** shall include an offer to sell.
- (34) **“Sewer,” “Sewer Services,” “Sewerage Facilities,” “Sewer Facilities,” “Wastewater,” and “Wastewater Facilities”** shall mean: (a) treatment works as defined by § 17.001 of the Texas Water Code, or individual, on-site (or OSSF), or cluster treatment systems such as septic tanks, and includes drainage facilities and other improvements for proper functioning of septic tank systems; and (b) the devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these Regulations.
- (35) **“State”** shall mean the State of Texas and its administrative agencies.
- (36) **“Subdivide”** shall mean to divide the surface area of a tract of land into lots or other divided parts intended: (a) for residential use; or (b) other non-residential uses.
- (37) **“Subdivision”** shall mean: (a) a division of land subject to potential regulation by this instrument, as described by the Border County Rules, Model Rules, and County Standard Rules of these Regulations, including a re-subdivision (or replat) of land which was previously divided.
- (38) **“Surveyor”** shall mean a Texas Registered Professional Land Surveyor pursuant to Texas law.
- (39) **“TAC”** shall mean the Texas Administrative Code, as compiled by the Texas Secretary of State.
- (40) **“TCEQ” or “the Commission”** shall mean the Texas Commission on Environmental Quality.
- (41) **“Texas Open Meetings Act”** shall mean Chapter 551 of the Texas Government Code.

- (42) **“TWDB” or “Board”** shall mean the Texas Water Development Board, and **“Executive Administrator”** shall mean the executive administrator of the TWDB.
- (43) **“Utility”** shall mean a person, legal entity, or political subdivision that provides the services of: an electric utility under § 31.002 or Chapter 181 of the Texas Utilities Code; a gas utility or corporation pursuant to § 101.003 or Chapter 181 of the Texas Utilities Code; a water and sewer utility pursuant to § 13.002 of the Texas Water Code; or any other utility defined by Texas law or these Regulations.
- (44) **“Water District”** shall mean the following described special district, a duly organized and operating special district with jurisdictional authority granted by the law of the State of Texas regarding the whole land area of Kinney County, Texas, said district being authorized to develop, promote and implement water conservation and management strategies to conserve, preserve, and protect the groundwater supplies of said district, and further, to protect and enhance recharge, prevent waste and pollution, and to promote efficient and beneficial use of groundwater within the territorial land area of said district: **Kinney County Groundwater Conservation District (“Kinney County GCD”)**, with its present business office located at 503 South Ann Street, Brackettville, Texas 78832, and its present mailing address being P. O. Box 369, Brackettville, Texas 78832 (telephone 830-563-9699).

§ 2.2 Interpretation and Appendix.

- (A) **Tense, Gender, and Number.** Unless otherwise designated, the past, present, or future tense shall each include the other, the masculine or feminine gender shall each include the other, and the singular and plural number shall each include the other where necessary for a correct meaning.
- (B) **Incorporation by Reference.** The following matters are approved and incorporated by reference in the Regulations: (1) all statements made in the preliminary recitals; (2) all documents attached as the Appendix; and (3) where applicable for the use, application or enforcement of these Regulations, all provisions of the County’s active floodplain management, sewer, septic/OSSF, or other development regulations.
- (C) **Minimum Requirements.** These Regulations shall be considered as minimum requirements and liberally construed in favor of the County.
- (D) **Superseding Effect.** These Regulations shall supersede, repeal, and replace any subdivision and/or MHRC regulations enacted by the County before the Effective Date.

ARTICLE 3 -- PLAT PROCEDURE, SUFFICIENCY, EXCEPTIONS, AND VARIANCES

- § 3.1 **Method of Regulation Dependent on Subdivision Type.** The southwest boundary of Kinney County, Texas is located on the international border between the United States of

America and Mexico; therefore, the provisions of Chapter 232, Subchapter B of the Texas Local Government Code (or Border County Rules) and the Model Subdivision Rules (or Model Rules) shall be the method of regulation required for certain qualifying types of subdivisions in the unincorporated area of Kinney County, Texas, as hereafter described in §§ 3.2-3.21 and 3.22 of these Regulations. Other types of subdivisions, not qualifying for regulation pursuant to the Border County Rules or Model Subdivision Rules, shall be regulated pursuant to the Kinney County Standard Subdivision Rules (or County Standard Rules), as hereafter described in §§ 3.23-3.29 of these Regulations.

[Start Border County Rules]

§ 3.2 Border County Rules Adopted.

- (A) **Application.** Pursuant to Chapter 232, Subchapter B, of the Texas Local Government Code (the subdivision platting requirements applicable to a county on or near an international border, including §§ 232.022 and 232.030 therein), these provisions (the Border County Rules) apply only to land in Kinney County, Texas that is subdivided into two or more lots that are intended primarily for residential use in the jurisdiction (i.e., unincorporated area) of the County. A lot is presumed to be intended for residential use if the lot is five acres or less.
- (B) **Exceptions.** These Border County Rules do not apply if: (1) the subdivision is incident to the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity, as determined under Chapter 573 of the Texas Government Code; (2) all of the lots of the subdivision are more than 10 acres; or (3) a written ETJ agreement exists between the County and a municipality as described below.
- (C) **ETJ Agreements.** Land is considered to be in the jurisdiction of the County if the land is located in the County and outside the corporate limits of municipalities (i.e., unincorporated area) -- except that, land in a municipality's ETJ is not considered to be in the jurisdiction of the County for purposes of this section if the municipality and the County have entered into a written agreement under § 242.001 of the Texas Local Government Code that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.
- (D) **Special Definitions.** Notwithstanding anything to the contrary stated in these Regulations, and pursuant to § 232.021 of the Texas Local Government Code (the contents of which are hereby incorporated by reference), the following special definitions shall apply regarding the Border County Rules whether the term or phrase appears in capital letters or in bolded, italicized, or underlined print: see **Appendix/Exhibit H**.

§ 3.3 Subdivision Regulation and County Authority.

- (A) **Adoption and Implementation of Model Subdivision Rules.** Pursuant to §§ 232.023, 232.030, and 232.032 of the Texas Local Government Code and other authority, the

Commissioners Court has adopted in § 3.22 of these Regulations, and shall enforce, the **Model Subdivision Rules** developed under § 16.343 of the Texas Water Code, 31 TAC §§ 364.1-364.72, and other authority. The Model Rules shall be applied to govern plat and subdivisions of land subject to regulation by these Border County Rules. Except as provided by § 16.350(d) of the Texas Water Code, §§ 232.042 or 232.043 of the Texas Local Government Code, or the Model Rules, the Commissioners Court may not grant a variance to waive any requirements of Chapter 232, Subchapter B, of the Texas Local Government Code or the Model Rules.

- (B) **Adoption of Public Health, Safety, and Welfare Provisions.** By these and other County regulations, the Commissioners Court has adopted standards setting forth requirements for: (1) potable water sufficient in quality and quantity to meet minimum state standards; (2) solid waste disposal meeting minimum state standards and rules adopted by the County under Chapter 364 of the Texas Health and Safety Code, by herein requiring and allowing one or more commercial providers to provide solid waste disposal services as an alternative to having the service provided by the County; (3) sufficient and adequate roads that satisfy the standards adopted by the County; (4) sewer facilities meeting minimum state standards; (5) electric service and gas service; and (6) standards for flood management meeting the minimum standards set forth by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).
- (C) **County Inspections and Fees.** Pursuant to § 232.0305 of the Texas Local Government Code and other authority, a fee shall be imposed (see **Appendix/Exhibit D**) on a subdivider of property under these Border County Rules and Model Rules for an inspection of the property to ensure compliance with the Regulations adopted under Chapter 232, Subchapter B of the Texas Local Government Code, § 16.343 of the Texas Water Code, or other applicable law. Fees collected under this provision may be used only to fund inspections and review conducted under these Regulations.

§ 3.4 Plat Requirements.

- (A) **Plat Submission.** Pursuant to § 232.023 of the Texas Local Government Code and other authority, and notwithstanding anything to the contrary stated in these Regulations, a subdivider of land must have a plat of the subdivision prepared if: (1) at least one of the lots of the subdivision is five acres or less; or (2) if none of the lots is five acres or less but at least one of the lots of the subdivision is more than five acres but not more than 10 acres. The Border County Rules do not apply if all of the lots of the subdivision are more than 10 acres.
- (B) **Method of Subdivision Creation.** A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

- (C) **Plat Content.** A plat required under this section must: (1) be certified by a surveyor or engineer registered to practice in this state; (2) define the subdivision by metes and bounds; (3) locate the subdivision with respect to an original corner of the original survey of which it is a part; (4) describe each lot, number each lot in progression, and give the dimensions of each lot; (5) state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part; (6) include or have attached a document containing a description in English and Spanish of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable; (7) have attached a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities proposed under the above subdivision (6) are in compliance with the Model Rules adopted under § 16.343 of the Texas Water Code, and a certified estimate of the cost to install water and sewer service facilities; (8) provide for drainage in the subdivision to (a) avoid concentration of storm drainage water from each lot to adjacent lots, (b) provide positive drainage away from all buildings, and (c) coordinate individual lot drainage with the general storm drainage pattern for the area; (9) include a description of the drainage requirements as provided in subdivision (8); (10) identify the topography of the area; (11) include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain; (12) include certification that the subdivider has complied with the requirements of § 232.032 of the Texas Local Government Code and the Model Rules, and that: (a) the water quality and connections to the lots meet, or will meet, the minimum state standards; (b) sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards; (c) electrical connections provided to the lot meet, or will meet, the minimum state standards; and (d) gas connections, if available, provided to the lot meet, or will meet, the minimum state standards; and (13) that the subdivision and plat are in compliance with the Modern Rules. A subdivider may meet the requirements of the above subsection (C)(12)(b) through the use of a certificate issued by the appropriate County or state official having jurisdiction over the approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems.
- (D) **Plat Acknowledgment and Recordation.** The subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat. The approved plat must be filed and recorded with the District-County Clerk. The plat is subject to the filing and recording provisions of § 12.002, of the Texas Property Code (including without limitation the attachment of tax certificates or other documents described by that statute showing no ad valorem tax delinquencies exist regarding the real property made the subject of the subdivision).
- (E) **Digital Map Requirement.** A plat application submitted for approval must include a digital map that is compatible with other mapping systems used by the County and that

georeferences the subdivision plat and related public infrastructure using the Texas Coordinate Systems adopted under § 21.071 of the Texas Natural Resources Code. A digital map required under this subsection may be required only in a format widely used by common geographic information system software. An exemption from this requirement may be obtained through a variance request if the subdivider of the tract submits with the plat application an acknowledged statement indicating that the digital mapping technology necessary to submit a map that complies with this subsection was not reasonably accessible.

§ 3.5 Approval by County Required.

- (A) **Commissioners Court Approval.** A plat filed is not valid unless the Commissioners Court approves the plat by an order entered in the minutes of the Court. The Commissioners Court shall refuse to approve a plat if it does not meet the requirements prescribed by or under Chapter 232, Subchapter B of the Texas Local Government Code and these Regulations, or if any required bond of other financial security under said authority or Regulations is not filed with the District-County Clerk. The plat and all other documents submitted to the County to support a request for plat approval must be truthful, accurate, correct, and prepared in compliance with the requirements (including methodology) prescribed by law and these Regulations, including the applicable statutes and regulations of the State of Texas and federal government (and the administrative agencies thereof), and the County's active flood damage prevention order or other floodplain management regulations, sewer, septic, OSSF or other wastewater regulations, or other land development regulations.
- (B) **Floodplain Land.** If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the Commissioners Court shall not approve the plat unless: (1) the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under § 16.315 of the Texas Water Code; and (2) the plat evidences a restrictive covenant prohibiting the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of the NFIP and local regulations or orders adopted under § Section 16.315 of the Texas Water Code.
- (C) **District-County Clerk Response Requirements.** On request, the District-County Clerk shall provide the Texas Attorney General or the Texas Water Development Board: (1) a copy of each plat that is approved under these Regulations; or (2) the reasons in writing and any documentation that support a variance granted under these Regulations.

- § 3.6 **Subdivision Requirements.** Pursuant to the order adopted and entered in the minutes of the Commissioners Court, and the notice published in English and Spanish in a newspaper of general circulation in the County, and pursuant to § 232.025 of the Texas Local Government Code and other authority, the Commissioners Court hereby imposes the following requirements for each subdivision under these Border County Rules: (a) a right-

of-way is required on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet; (b) a right-of-way is required on any other street or road in a subdivision of not less than 40 feet or more than 70 feet; (c) a shoulder-to-shoulder width is required on collectors or main arteries within the right-of-way shall be not less than 32 feet or more than 56 feet, and the shoulder-to-shoulder width on any other street or road shall be not less than 25 feet or more than 35 feet; (d) based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road are required as described by these Regulations; (e) reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices are required as described in the **Appendix/Exhibit C** of these Regulations; (f) each purchase contract made between a subdivider and a purchaser of land in the subdivision shall contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision; and (g) the subdivider of the tract shall execute a bond or other financial security in the manner described in § 232.027 of the Texas Local Government Code and in these Regulations.

§ 3.7 Water and Sewer Service Extension. Pursuant to § 232.026 of the Texas Local Government Code and other authority, the Commissioners Court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the Court finds the extension is reasonable and not contrary to the public interest. The Court will not grant such extension if it would allow an occupied residence to be without water or sewer services. If the Court provides an extension, the Court shall notify the Texas Attorney General of the extension and the reason for the extension. The Texas Attorney General shall notify all other state agencies having enforcement power over subdivisions of the extension.

§ 3.8 Bond or Other Financial Security Requirements. Pursuant to § 232.027 of the Texas Local Government Code and other authority, unless a person has completed the installation of all water and sewer service facilities required by these Border County Rules on the date that person applies for final approval of a plat under § 232.024 of the Texas Local Government Code and these Regulations, it is required that the subdivider of the tract execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the Commissioners Court determines will ensure compliance with Chapter 232, Subchapter B of the Texas Local Government Code and these Regulations. A person may not meet the requirements of this section through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The subdivider must comply with this requirement before subdividing the tract. The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the Model Subdivision Rules adopted by the County under § 16.343 of the Texas Water Code and as described in § 3.22 of these Regulations. (See **Appendix/Exhibit G** regarding Bond or Other Financial Security Requirements).

§ 3.9 Certification Regarding Compliance with Plat Requirements.

- (A) **Court Approval and Water/Wastewater Compliance.** Pursuant to § 232.028 of the Texas Local Government Code and other authority, on the approval of a plat by the Commissioners Court, the Court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the Court. On the Court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the Court shall make the following determinations regarding the land in which the entity or Court is interested that is located within the jurisdiction of the County: (1) whether a plat has been prepared and whether it has been reviewed and approved by the Court; (2) whether water service facilities have been constructed or installed to service the lot or subdivision under § 232.023 of the Texas Local Government Code and these Regulations, and if so, whether they are fully operable; (3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under § 232.023 of the Texas Local Government Code and these Regulations, and if so, whether they are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility, and if not, whether lots in the subdivision can be adequately and legally served by septic systems under the aforesaid authority; and (4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under § 232.023 of the Texas Local Government Code and these Regulations. The request made under this subsection must identify the land that is the subject of the request. Whenever such a request is made under this subsection, the Court shall issue to the requesting party a written certification of its determinations. The Court shall make its determinations within 20 days after the date it receives the request under this subsection and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.
- (B) **Certificate Fee.** A fee shall be imposed (see **Appendix/Exhibit D**) for a certificate issued under this section for a subdivision which is located in the County and not within the limits of a municipality. A person who obtains a certificate under this section is not required to obtain a certificate under § 212.0115 of the Texas Local Government Code (regarding a certificate fee imposed by a municipality for a subdivision located in its ETJ).

§ 3.10 Connection of Utilities. Pursuant to § 232.029 of the Texas Local Government Code and other authority, the following utility connection requirements are adopted and approved as follows: see **Appendix/Exhibit F**.

§ 3.11 Requirements Prior to Sale or Lease. Pursuant to § 232.031 of the Texas Local Government Code and other authority, a subdivider may not sell or lease land in a subdivision first platted or re-platted after July 1, 1995, unless the subdivision plat is approved by the Commissioners Court in accordance § 232.024 of the Texas Local Government Code and these Regulations. Not later than the 30th day after the date a lot is sold, a subdivider shall record with the District-County Clerk all sales contracts, including the attached disclosure statement required by § 232.033 of the Texas Local Government Code and these Regulations, leases, and any other documents that convey an interest in the subdivided land. A document filed under this section is a public record.

§ 3.12 Services Provided by Subdivider. Pursuant to § 232.032 of the Texas Local Government Code and other authority, a subdivider having an approved plat for a subdivision shall: (a) furnish a certified letter from the utility provider stating that water is available to the subdivision sufficient in quality and quantity to meet minimum state standards required by § 16.343 of the Texas Water Code and these Regulations, and consistent with the certification in the letter, and that water of that quality and quantity will be made available to the point of delivery to all lots in the subdivision and when it will be made available; (b) furnish sewage treatment facilities that meet minimum state standards to fulfill the wastewater requirements of the subdivision or furnish certification by the appropriate county or state official having jurisdiction over the approval of the septic systems indicating that lots in the subdivision can be adequately and legally served by septic systems as provided under Chapter 366 of the Texas Health and Safety Code; (c) furnish roads satisfying minimum standards as adopted by the County and described in these Regulations; (d) furnish adequate drainage meeting standard engineering practices as described in the **Appendix/Exhibit C** of these Regulations; and (e) make a reasonable effort to have electric utility service and gas utility service installed by a utility.

§ 3.13 Advertising Standards and Other Requirements Before Sale; Criminal Offense. Pursuant to § 232.033 of the Texas Local Government Code and other authority, the following standards and requirements are adopted and required.

- (A) **Advertising.** Brochures, publications, and advertising of any form relating to subdivided land: (1) may not contain any misrepresentation; and (2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities.
- (B) **Documents in Spanish.** The subdivider shall provide a copy in Spanish of all written documents relating to the sale of subdivided land under an executory contract, including the contract, disclosure notice, and annual statement required by this section and a notice of default required by Subchapter D, Chapter 5, of the Texas Property Code (see § 5.061 *et seq.* of the Texas Property Code) if: (1) negotiations that precede the execution of the executory contract are conducted primarily in Spanish; or (2) the purchaser requests the written documents to be provided in Spanish.
- (C) **Written Notice Form.** Before an executory contract is signed by the purchaser, the subdivider shall provide the purchaser with a written notice, which must be attached to the executory contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the subdivider and purchaser, be acknowledged, and read substantially similar to the following:

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

WARNING

CONCERNING THE PROPERTY AT (street address or legal description and municipality)
THIS DOCUMENT STATES THE TRUE FACTS ABOUT THE LAND YOU ARE
CONSIDERING PURCHASING.

CHECK OFF THE ITEMS THAT ARE TRUE:

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

NOTICE

SELLER ADVISES PURCHASER TO: (1) OBTAIN A TITLE ABSTRACT OR TITLE COMMITMENT REVIEWED BY AN ATTORNEY BEFORE SIGNING A CONTRACT OF THIS TYPE; AND (2) PURCHASE AN OWNER'S POLICY OF TITLE INSURANCE COVERING THE PROPERTY.

(Date) _____

(Signature of Subdivider)

(Date) _____

(Signature of Purchaser)

- (D) **Annual Statement.** The subdivider shall provide any purchaser who is sold a lot under an executory contract with an annual statement in January of each year for the term of the executory contract. If the subdivider mails the statement to the purchaser, the statement must be postmarked not later than January 31. The statement under this subsection must include the following information: (1) the amount paid under the contract; (2) the remaining amount owed under the contract; (3) the annual interest rate charged under the contract during the preceding 12-month period; and (4) the number of payments remaining under the contract.
- (E) **Purchaser Deduction.** If the subdivider fails to comply with subsection (D) above, the purchaser may: (1) notify the subdivider that the purchaser has not received the statement and will deduct 15 percent of each monthly payment due until the statement is received; and (2) not earlier than the 25th day after the date the purchaser provides the subdivider notice under this subsection, deduct 15 percent of each monthly payment due until the statement is received by the purchaser. A purchaser who makes a deduction under this subsection is not required to reimburse the subdivider for the amount deducted.

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

§ 3.14 **Conflict of Interest and Penalty.** The conflict of interest and penalty provisions of § 232.034 of the Texas Local Government Code are hereby adopted for use and application in these Regulations.

§ 3.15 **Civil Penalties.** Pursuant to § 232.035 of the Texas Local Government Code and other authority, the following civil penalty provisions are adopted and shall be enforced:

- (A) **Violation – Lot Sale.** A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by Chapter 232, Subchapter B of the Texas Local Government Code and these Border County Rules.
- (B) **Violation – Nuisance.** Notwithstanding any other remedy at law or equity, a subdivider or an agent of a subdivider may not cause, suffer, allow, or permit any part of a subdivision over which the subdivider or an agent of the subdivider has control, or a right of ingress and egress, to become a public health nuisance as defined by § 341.011 of the Texas Health and Safety Code.
- (C) **Violation – Failure to Provide Facilities/Service or Other Violation Provisions.** A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat -- or who otherwise violates Chapter 232, subchapter B of the Texas Local Government Code, or violates a rule or requirement adopted by the Commissioners Court under that aforesaid authority -- is subject to a civil penalty of not less than \$500 or more than \$1,000 for each violation and for each day of a continuing violation but not to exceed \$5,000 each day and shall also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.
- (D) **Other Penalty Provisions.** Except as provided hereafter, a person who violates subsection (A) or (B) above is subject to a civil penalty of not less than \$10,000 or more than \$15,000 for each lot conveyed or each subdivision that becomes a nuisance. The person must also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit. A person who violates subsection (B) above is not subject to a fine under Subsection (D) above if the person corrects the nuisance not later than the 30th day after the date the person receives notice from the Texas Attorney General or a local health authority of the nuisance.
- (E) **Venue Provisions.** Venue for an action under this section is in a district court of Travis

County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.

§ 3.16 Criminal Penalties. Pursuant to § 232.036 of the Texas Local Government Code and other authority, the following criminal penalty provisions are adopted and shall be enforced:

- (A) **Misdemeanor Offense – Failure to File Plat.** A subdivider commits an offense if the subdivider knowingly fails to file a plat required by Chapter 232, Subchapter B, of the Texas Local Government Code. An offense under this subsection is a Class A misdemeanor as defined by the Texas Penal Code.
- (B) **Misdemeanor Offense – Failure to Timely Provide Services.** A subdivider who owns a subdivision commits an offense if the subdivider knowingly fails to timely provide for the construction or installation of water or sewer service as required by § 232.032 of the Texas Local Government Code, or fails to make a reasonable effort to have electric utility service and gas utility service installed by a utility as required by § 232.032 of the Texas Local Government Code. An offense under this subsection is a Class A misdemeanor as defined by the Texas Penal Code.
- (C) **Felony Offense.** If it is shown at the trial of an offense under subsection (A) that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony as defined by the Texas Penal Code.
- (D) **Misdemeanor Offense – Lot Conveyance.** A subdivider commits an offense if the subdivider allows the conveyance of a lot in the subdivision without the appropriate water and sewer utilities as required by § 232.032 of the Texas Local Government Code, or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by § 232.032 of the Texas Local Government Code. An offense under this section is a Class A misdemeanor as defined by the Texas Penal Code. Each lot conveyed constitutes a separate offense.
- (E) **Venue.** Venue for prosecution for a violation under this section is in the county in which any element of the violation is alleged to have occurred or in Travis County.

§ 3.17 Enforcement. Pursuant to § 232.037 of the Texas Local Government Code and other authority, the following enforcement provisions are adopted and shall be implemented:

- (A) **Violations and Threatened Violations.** The Texas Attorney General, or the district attorney, criminal district attorney, county attorney with felony responsibilities, or county attorney of the county may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to: (1) enjoin the violation or threatened violation of the Model Subdivision Rules adopted by the County in these Regulations under § 16.343 of the Texas Water Code; (2) enjoin the violation or threatened violation of a requirement of Chapter 232, Subchapter B of the Texas Local Government Code or a rule adopted by the Commissioners Court under said authority; (3) recover civil or criminal

penalties, attorney's fees, litigation costs, and investigation costs; and (4) require platting or re-platting under § 232.040 of the Texas Local Government Code.

- (B) **Criminal Prosecution by Texas Attorney General.** The Texas Attorney General, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under §§ 232.033(h) or 232.036 of the Texas Local Government Code.
- (C) **Action to Halt Utility Service Termination.** During the pendency of any enforcement action brought, any resident of the affected subdivision, or the Texas Attorney General, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of pre-existing utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health, safety, or welfare of the residents.
- (D) **Other Enforcement Authority.** The applicable enforcement provisions prescribed by §§ 16.352, 16.353, 16.354, and 16.3545 of the Texas Water Code are hereby adopted and shall be implemented to enforce violations or threatened violations of these Regulations.

§ 3.18 **Suit by Private Person in Economically Distressed Area.** The suit by private person in economically distressed area provisions of § 232.038 of the Texas Local Government Code (the contents of which are incorporated by reference) are hereby adopted for use and application in these Regulations.

§ 3.19 **Cancellation of Subdivision, Re-Platting, Plat Revision, and Amendment.** The following provisions of Chapter 232 of the Texas Local Government Code are hereby adopted as authority of the Commissioners Court for use and application in these Regulations: § 232.039 regarding cancellation of a subdivision; § 232.040 regarding the re-platting requirements for a subdivision; § 232.041 regarding plat revision requirements for a subdivision; §§ 232.042-.043 of the Texas Local Government Code regarding variances from replatting; § 232.044 of the Texas Local Government Code regarding consideration of plat amendment. (See **Appendix/Exhibit I** regarding application of Border County Rules statutes and County Standards Rules statutes).

§ 3.20 **Variances from Platting and Re-Platting Requirements.** The following provisions of Chapter 232, Subchapter B of the Texas Local Government Code are hereby adopted for use and application in these Regulations: §§ 232.042-.043 regarding the consideration of variance requirements related to a platting of a subdivision. (See **Appendix/Exhibit J**).

§ 3.21 **Additional Requirements.** Pursuant to §§ 232.002-232.0029, 232.0031-232.0033, 232.101-.107 and 232.109 of the Texas Local Government Code and other authority, the following provisions of these Regulations are adopted for plat procedure and Developer compliance under these Border County Rules: §§ 3.26-3.29, 4.2, and 5.1-5.2 of these Regulations, where not in conflict with or superseded by these Border County Rules.

[End Border County Rules][Start Model Rules]

§ 3.22 Model Subdivision Rules Adopted. Notwithstanding anything to the contrary stated in these Regulations, and pursuant to the authority herein described to support these Regulations, including without limitation § 16.343 of the Texas Water Code, §§ 232.023, 232.030, and 232.032 of the Texas Local Government Code, and 31 TAC §§ 364.1-364.72, the following Model Subdivision Rules (or Model Rules) are adopted for use in these Regulations regarding certain types of qualifying residential subdivisions in the unincorporated area of Kinney County, Texas, as hereafter described.

- (A) **Application.** These Model Rules apply only to a subdivision in the unincorporated area subject to regulation under the Border County Rules and in which there is created two or more lots of five acres or less intended for residential purposes, and for which a plat is required by Chapter 232 of the Texas Local Government Code and these Regulations. Lots of five acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.
- (B) **Purpose.**
- (1) These Model Rules provide the criteria for assuring that an adequate supply of safe drinking water and adequate safe sewer facilities are available to residential areas in accordance with state standards established by the Texas Department of Health and the Texas Commission on Environmental Quality. The Model Rules prohibit the establishment of residential developments in the unincorporated area with lots of five acres or less without adequate water supply and sewer services, prohibit more than one single-family, detached dwelling to be located on each subdivision lot, and establish minimum setbacks to ensure proper operation of water supply and sewer services and to reduce the risk of fire hazards.
 - (2) Furthermore, it is the purpose of these rules to promote the public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of this County, and to apply the minimum state standards for water and wastewater facilities to these subdivisions.
 - (3) These Model Rules became effective for application to qualifying subdivisions in the unincorporated area of Kinney County, Texas on the Effective Date, and pursuant to 31 TAC § 364.16 and other authority, they supersede any conflicting regulations of the County.
- (C) **Authority and Scope.** These Model Rules are adopted by the County under the authority of the Texas Local Government Code, Chapter 232, Texas Water Code, § 16.350, and other authority as herein described. Notwithstanding any provision to the contrary, these Model Rules apply only to a subdivision in the unincorporated area subject to regulation under the

Border County Rules and in which there is created two or more lots of five acres or less intended for residential purposes. Lots of five acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

(D) **Plat Required.**

- (1) The Owner, Developer, or Subdivider of a tract of land located inside Kinney County, Texas, outside the corporate limits of a municipality, which divides the tract in any manner that creates two or more lots of five acres or less intended for residential purposes must have a plat of the subdivision prepared. Lots of five acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.
- (2) No subdivided land shall be sold or conveyed until the subdivider: (a) has received Commissioners Court approval of a final plat of the tract; and (b) has filed and recorded with the District-County Clerk a legally approved plat.
- (3) A division of a tract is defined as including a metes and bounds description, or any description of less than a whole parcel, in a deed of conveyance or in a contract for a deed, using a contract of sale or other executory contract, lease/purchase agreement, or using any other method to convey property

(E) **Severability.** Notwithstanding anything to the contrary stated in these Regulations, if any part or provision of these Model Rules, or application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these Model Rules or the application thereof to other persons or circumstances. The Commissioners Court hereby declares that it would have enacted the remainder of these Model Rules without any such part, provision or application.

(F) **Special Definitions.** Notwithstanding anything to the contrary stated in these Regulations, and pursuant to 31 TAC § 364.18 (the contents of which are hereby incorporated by reference), the following special definitions shall apply regarding the Model Rules whether the term or phrase appears in capital letters or in bolded, italicized, or underlined print: see **Appendix/Exhibit K.**

(G) **Minimum Standards/Scope of Standards.** The establishment of a residential development with two or more lots of five acres or less where the water supply and sewer services do not meet the minimum standards of these Model Rules is prohibited. A subdivision with lots of five acres or less is presumed to be a residential development unless the land is restricted to nonresidential use on the final plat and all deeds and contracts for deeds. A plat required by these Model Rules shall contain the following:

- (1) The plat shall be certified by a surveyor or engineer registered to practice in this state.
- (2) The plat shall define the subdivision by metes and bounds.
- (3) The plat shall locate the subdivision with respect to an original corner of the original survey of which it is a part.
- (4) The plat shall describe each lot by metes and bounds, number each lot in progression, and give the dimensions of each lot.
- (5) The plat shall state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or Owners of lots fronting on or adjacent to the street, alley, square, park, or other part.
- (6) The plat shall include or have attached a document containing a description in English and Spanish of the water and sewer facilities, and roadways and easements dedicated for the provision of water and sewer facilities, which will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable.
- (7) The plat shall have attached a document prepared by an engineer registered to practice in this state certifying that (i) the water and sewer service facilities proposed under the immediately preceding subparagraph (f) are in compliance with these Model Rules, and (ii) a certified estimate of the cost to install the water and sewer service facilities.
- (8) The plat shall provide for drainage in the subdivision to efficiently manage the flow of stormwater runoff and coordinate subdivision drainage with the general storm drainage pattern for the area, and further, shall: (i) comply with the reasonable drainage standards described in these Regulations; and (ii) include a description of those drainage requirements for the subdivision.
- (9) The plat shall identify the topography of the area.
- (10) The plat shall include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain;
- (11) The plat shall include certification that the Subdivider has complied with the requirements of § 232.0032, Texas Local Government Code, and that: (i) the water quality and connections to the lots meet, or will meet, the minimum state standards; (ii) sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards; (iii) electrical connections provided to the lots

meet, or will meet, the minimum state standards; and (iv) gas connections, if available, provided to the lots meet, or will meet, the minimum state standards. A Subdivider may meet the requirements of this provision through the use of a certificate issued by the appropriate County or state official having jurisdiction over the approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems.

- (12) The Subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat.
- (13) The plat must be filed and recorded with the District-County Clerk. The plat is subject to the filing and recording requirements of § 12.002 of the Texas Property Code.
- (14) The Plat Application shall include a digital map that is compatible with other mapping systems used by the County and that georeferences the subdivision plat and related public infrastructure using the Texas Coordinate Systems adopted under § 21.071 of the Natural Resources Code. An exemption from this requirement is granted if the Subdivider submits with the application an acknowledged statement indicating that the digital mapping technology necessary to submit a map that complies with this provision was not reasonably accessible.
- (15) The plat shall comply with the standards of Division 2 (including methodology) and the requirements of Division 3 (including methodology) of Subchapter B of 31 TAC Chapter 364, and the other matters described for plat sufficiency and approval in these Model Rules (including the 31 TAC § 364.53 requirements), and furthermore, pursuant to §§ 232.002-232.0029, 232.0031-232.0033, 232.101-.107 and 232.109 of the Texas Local Government Code, 31 TAC § 364.53, and other authority, the following provisions of these Regulations are adopted for plat procedure and Developer compliance under these Model Rules: §§ 3.26-3.29, 4.2, and 5.1-5.2 of these Regulations, where not in conflict with or superseded by these Model Rules.

(H) Water Facilities Development.

- (1) Public Water Systems.
 - (a) Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility in substantially the form described as Appendix 1A/Sample Form for Water Service Agreement in 31 TAC § 364.32(a)(1) with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision

for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat.

- (b) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the commission. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC §§ 290.38-290.51 and §§ 290.101-290.120. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1-230.11 for water availability for new public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or a wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

- (2) **Non-Public Water Systems.** Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1-230.11 for individual water supply wells on individual lots and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC §§ 290.104, 290.106, 290.108 and 290.109, either: (a) without any treatment to the water; or (b) with treatment by an identified and commercially available water treatment system.

- (2) **Transportation of Potable Water.** The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these Model Rules due to the negligence of the subdivider does not constitute an emergency.

(I) **Wastewater Disposal.**

- (1) **Organized Sewerage Facilities.**

- (a) Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the Commission in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317 from the Commission.
- (b) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form described as Appendix 1B/Sample Form for Wastewater Service Agreement in 31 TAC § 364.33(a)(2) with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is available to each lot upon completion of construction of the wastewater facilities described on the final plat. Engineering plans for the proposed wastewater collection lines must comply with 30 TAC Chapter 317.

(2) On-Site Sewerage Facilities.

- (a) On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than 5,000 gallons per day must comply with 30 TAC Chapter 285.
- (b) Proposals for sewerage facilities for the disposal of sewage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317.
- (c) The commission or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in particular §§ 285.4, 285.5 and 285.30-285.39. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC § 285.3(i), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

(J) **Greywater Systems for Reuse of Treated Wastewater.**

- (1) Organized or municipal sewerage systems. Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by the commission.
- (3) On-site sewerage facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC

Chapter 285.

- (K) **Sludge Disposal.** The disposal of sludge from water treatment and sewerage facilities shall meet the criteria of 30 TAC Chapter 312 and Chapter 317.
- (L) **Setbacks.** In areas that lack a nationally recognized fire code as listed in Texas Local Government Code § 233.062(c) and lack water lines sized for fire protection, setbacks from roads and rights-of-way shall be a minimum of 10 feet, setbacks from adjacent property lines shall be a minimum of 5 feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the County (including these Regulations) shall control to the extent greater setbacks are therein required.
- (M) **Number of Dwellings Per Lot.** “No more than one single family detached dwelling shall be located on each lot.” A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Proposals which include multi-family residential shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.
- (N) **Plat Application.** An application for approval of a plat shall be filed with the County Judge by the record Owner or Subdivider of the property to be subdivided or the duly authorized agent thereof. Every plat creating two or more lots of five acres or less for residential use shall comply with all of the standards and requirements described in 31 Texas Administrative Code, Chapter 364 (Model Subdivision Rules), Subchapter B, Divisions 2 (Minimum Standards) and 3 (Plat Approval). The plat and all other documents submitted to the County to support a request for plat approval must be truthful, accurate, correct, and prepared in compliance with the requirements (including methodology) prescribed by law and these Regulations, including the applicable statutes and regulations of the State of Texas and federal government (and the administrative agencies thereof), and the County’s active flood damage prevention order or other floodplain management regulations, sewer, septic, OSSF or other wastewater regulations, or other land development regulations.
- (O) **Final Engineering Report.** The final plat shall include on the plat or have attached to the plat an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the County shall be provided for those unconstructed water supply and distribution facilities and wastewater collection and treatment facilities which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under 31 TAC § 364.54, the schedule shall include the start dates and completion dates.

Furthermore, the following compliance matters are required:

- (1) Public Water Systems.
 - (a) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement between the subdivider and the retail public utility in substantially the form attached as in 31 TAC § 364.32(a)(1). Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project which may include in addition to the County, the Commission and the County Health Department. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1-230.11 for water availability for a public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision.
 - (b) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the Commission and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1-230.11 for water availability for a public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.
- (2) Non-Public Water Systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with 31 TAC § 364.32. The results of such analyses shall be made available to the prospective property Owners. If the water quality of the test well required pursuant to 31 TAC § 364.32(b) does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the County at which

the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for individual water supply wells on individual lots and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. The description of the required sanitary control easement shall be included.

- (4) **Organized Sewerage Facilities.**
- (a) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement between the subdivider and the retail public utility in substantially the form attached in 31 TAC § 364.33(a)(2). Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the Commission and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.
- (b) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the Commission. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the commission and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.
- (4) **On-site Sewerage Facilities.** Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC § 285.4(c), including the site evaluation described by 30 TAC § 285.30 and all other information required by the County's OSSF order.

(P) **Financial Guarantees for Improvements.**

- (1) **Applicability.** If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of five acres or less at the time final plat approval is sought, then the Commissioners Court shall require the Owner of the subdivided tract to execute an agreement with the County in substantially the form attached as Appendix 2A/Subdivision Construction Agreement/Sample Form to 31 TAC § 364.54(a), secured by a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit which meet the requirements set forth below and in **Appendix/Exhibit G.**

- (2) Bonds. A bond that is submitted in compliance with subsection (a) of this section shall meet the following requirements.
- (a) The bond or financial guarantee shall be payable to the county judge of the County, in his official capacity, or the judge's successor in office.
 - (b) The bond or financial guarantee shall be in an amount determined by the Commissioners Court to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.
 - (c) The bond shall be executed with sureties as may be approved by the Commissioners Court. The County criteria for acceptability of the surety companies issuing bonds are as follows: (1) registration with the Secretary of State and be authorized to do business in Texas; (2) authorization to issue bonds in the amount required by the Commissioners Court; and (3) rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.
 - (d) The bond shall be conditioned upon construction or installation of water and wastewater facilities meeting the criteria established by Division 2 of 31 TAC § 364, Subchapter B and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the Commissioners Court.
- (3) Letter of Credit. A letter of credit that is submitted in compliance with this section shall meet the following requirements.
- (a) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$10,000 and less than \$250,000 must be from financial institutions which meet the following qualifications.
 - (i) Bank qualifications: (1) must be federally insured; (2) Sheshunoff rating must be 10 or better and primary capital must be at least 6.0% of total assets; and (3) total assets must be at least \$25 million.

- (ii) Savings and loan association qualifications: (1) must be federally insured; (2) tangible capital must be at least 1.5% of total assets and total assets must be greater than \$25 million or tangible capital must be at least 3.0% of total assets if total assets are less than \$25 million; and (3) Sheshunoff rating must be 30 or better.
 - (iii) Other financial institutions qualifications: (1) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and (2) the investment instrument must be registered in the County's name and the County must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (b) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$250,000 must be from financial institutions which meet the following qualifications.
 - (i) Bank qualifications: (1) must be federally insured; (ii) Sheshunoff rating must be thirty or better and primary capital must be at least 7.0% of total assets; and (iii) total assets must be at least \$75 million.
 - (ii) Savings and loan association qualifications: (1) must be federally insured; (2) tangible capital must be at least 3.0% of total assets and total assets must be greater than \$75 million, or tangible capital must be at least 5.0% of total assets if total assets are less than \$75 million; and (3) Sheshunoff rating must be 30 or better.
 - (iii) Other financial institutions qualifications: (1) the letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and (2) the investment instrument must be registered in the County's name and the County must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (c) The letter of credit shall list as sole beneficiary the County Judge in his official capacity, or the judge's successor in office, and must be approved by the County Judge. The form of the letter of credit shall be modeled after the form attached as Appendix 2B/Irrevocable Letter of Credit/Sample Form of 31 TAC § 364.54(c)(3).
- (d) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under Division 2 of 31 TAC Chapter 364, Subchapter B and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the

commissioners court.

- (4) Financial Guarantee. The County will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.
- (5) Alternative to County Accepting a Financial Guarantee. The County may approve a final plat under this section without receiving a financial guarantee in the name of the County if:
 - (a) the property being subdivided lies wholly within the jurisdiction of the County;
 - (b) the property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and
 - (c) the municipality has executed an interlocal agreement with the County that imposes the obligation on the municipality to: (i) accept the bonds, letters of credit, or other financial guarantees, which meet the requirements of this section; (ii) execute the construction agreement with the subdivider; and (iii) assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

(Q) Review and Approval of Final Plats.

- (1) Scope of Review. The County will review the final plat to determine whether it meets the standards of Division 2 and the requirements of Division 3 of 31 TAC Chapter 364, Subchapter B.
- (2) Disapproval Authority. The Commissioners Court shall refuse to approve a plat if it does not meet the requirements prescribed by or under these Model Rules.
- (3) Prerequisites to Approval. Final plat approval shall not be granted unless the subdivider has accomplished the following:
 - (a) dedicated the sites for the adequate water and sewerage facilities identified in the final plat to the appropriate retail public utility responsible for operation and maintenance of the facilities; and
 - (b) provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these Model Rules and the approvals from the Commission of the plans and specifications for such construction, including any change orders filed with these agencies; or

- (c) obtained all necessary permits for the proposed water facilities and sewerage facilities (other than for OSSF permits on individual lots within the proposed subdivision) and has entered into a financial agreement with the County secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in Division 3 of 31 TAC Chapter 364, Subchapter B.

(R) Time Extensions for Providing Facilities.

- (1) Reasonableness. The Commissioners Court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if: (a) any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with 31 TAC § 364.54 are submitted which will be effective for the period of the extension; and (b) the Court finds the extension is reasonable and not contrary to the public interest.
- (2) Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.
- (3) Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Division 2 of 31 TAC Chapter 364, Subchapter B.

(S) Criteria for Subdivisions that Occurred Prior to September 1, 1989.

- (1) Authority and scope. This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989 and have not been platted or recorded. This section is in addition to the authority of the County to grant a delay or variance pursuant to Texas Local Government Code § 232.043 or a rule of the County adopted pursuant to such provision.
- (2) Purpose. It is the purpose of this section to promote the public health of the county residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the jurisdiction of this County, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the County.
- (3) Required plat. In the event that the Owner of tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or

other parts of the tract intended to be dedicated to public use or for the use of purchasers or Owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the Commissioners Court, and filed, the Owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the Commissioners Court as provided in this section in lieu of the filing of a plat of the subdivision.

- (4) Special Criteria. The Commissioners Court may approve the plat of a residential lot which does not comply with the provisions of §§ 364.15(b) (sale restrictions), 364.36 (Setbacks), 364.37 (Number of Dwellings per Lot), 364.52 (Final Engineering Report), and 364.54 (Financial Guarantees for Improvements) of 31 TAC Chapter 364, as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of these Model Rules so that the public health, safety, and welfare may be secured and substantial justice done.
- (a) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.
- (b) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the chapter, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the Commissioners Court may request to support the application, including: (i) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989; (ii) the name and address of the original Subdivider or the Subdivider's authorized agent, if known; (iii) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and (iv) a deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.
- (c) Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the Commissioners Court that: (i) the lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original Subdivider; (ii) a plat was required for the subdivision, but has not been filed with the County by the subdivider legally obligated to file it; (iii) an existing, currently occupied residential dwelling is located on the lot; (iv) existing water and sewer services which comply with the minimum standards set forth herein are available to the lot; and (v) the request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.

- (5) **Final Determination.** The Commissioners Court shall make the final decision on an application for a waiver, following review and recommendation by the County planning commission or department, if any. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved by the Commissioners Court, the County shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.
- (T) **Oversight.** The Owner, by submitting a plat, acknowledges the authority of the County and state agencies to lawfully enter and inspect property for purposes of execution of their statutory duties. Such inspection will not release the Owner from any obligation to comply with the requirements of these Model Rules.
- (U) **General Enforcement Authority of County.** These Model Rules are enforceable pursuant to the specific provisions of the Regulations related to enforcement and state law, including without limitation: Chapter 7 and §§ 16.352, 16.353, 16.3535, 16.354, and 16.3545 of the Texas Water Code; §§ 232.037, 232.078, 232.079 and 232.080 of the Texas Local Government Code; and the other applicable enforcement authority recited in the Regulations or state law.

[End Model Rules]

[Start County Standard Rules]

§ 3.23 **County Standard Rules Adopted.** Notwithstanding anything to the contrary stated in these Regulations, and pursuant to the authority herein described to support these Regulations, including without limitation Chapter 232, Subchapters A and E, of the Texas Local Government Code, the Kinney County Standard Subdivision Rules (or County Standard Rules) are adopted for use in these Regulations regarding certain types of qualifying subdivisions in the unincorporated area of Kinney County, Texas, as hereafter described.

§ 3.24 **Application.** These County Standard Rules apply to a subdivision type in the unincorporated area which does not qualify for regulation under the Border County Rules and/or Model Subdivision Rules described in these Regulations.

§ 3.25 **Plat Required for Division of Land.**

- (A) **Division Defined.** Pursuant to § 232.001 of the Texas Local Government Code, the owner of a tract of land in Kinney County, Texas located outside the limits of a municipality must have a plat of the subdivision prepared, and thereafter approved by the Commissioners Court, if the owner divides the tract into two or more parts to lay out: (1) a subdivision of the tract, including an addition; (2) lots; or (3) streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use.
- (B) **Scope of Division.** A division of a tract of land as described in this section is a subdivision

for purposes of the Regulations, and includes any such division regardless of whether it is made: (1) by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method; or (2) for the purpose of residential, business, commercial, industrial, or other development.

§ 3.26 Minimum Plat Standards. In order to obtain Commissioners Court approval, and for recordation in the Official Public Records (Real Property and/or Plat Records) of the District-County Clerk, the plat must comply with the minimum standards described in these Regulations.

- (A) **Lawful Compliance.** The plat and all other documents submitted to the County to support a request for plat approval must be truthful, accurate, correct, and prepared in compliance with the requirements (including methodology) prescribed by law and these Regulations, including the applicable statutes and regulations of the State of Texas and federal government (and the administrative agencies thereof), and the County's active flood damage prevention order or other floodplain management regulations, sewer, septic, OSSF or other wastewater regulations, or other land development regulations.
- (B) **Acknowledgment and Recordation.** Before lots are sold, the approved plat must be: (1) executed and acknowledged by the record and fee simple owner of the land of the subdivision (and specifically not the agent thereof) in the manner required for the acknowledgment of deeds; and (2) recorded pursuant to § 12.002 of the Texas Property Code in the Official Public Records (real property and/or plat records) of the District-County Clerk within 90 days from plat approval.
- (C) **Surveyor and Engineer Certification.** The plat prior to approval must be signed, sealed, and certified by the Developer's surveyor and engineer, and said surveyor and engineer must be currently licensed and in good standing to practice in Texas.
- (D) **Property Description, Identifying Data, and Signatures.**
 - (1) **General Description.** The plat must describe the subdivision and all of its parts by a metes and bounds description made as a result of an on the ground survey and inspection, drawn to the required scale and dimensions, and including the following: (a) the subdivision boundary; (b) the internal parts of the subdivision, including all lots, divisions of land, streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts; (c) the effective plat date; (d) a location map; (e) the required scale and dimension components; (f) a north point; and (g) all required signatures, dating, certification, supporting documentation, and professional seals required by the Regulations.
 - (2) **Additional Descriptions.** The plat must describe all identifying data required by the Regulations regarding the subdivision and its surrounding area, including: (a)

the name of the subdivision and its owner; (b) any adjoining subdivisions and owners, or adjoining properties and owners; (c) all lots, divisions of land, streets, alleys, squares, parks, or other parts intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to said parts; (d) driveways, common areas and any areas to be used by adjacent lot owners or purchasers; (e) rights of way and easements whether of record, apparent, or proposed; (f) natural drains, drainage structures or improvements whether of record, apparent, or proposed; (g) water bodies, water courses, and floodplain boundaries; (h) building and set-back lines; (i) lot frontages; and (j) restrictive covenants, restrictions, or reservations whether of record or proposed.

- (E) **Survey Data.** The plat must locate the subdivision with respect to an original corner of the original survey of which it is a part, and at least one exterior corner of the subdivision shall be defined on the plat and located by State Plane Coordinates. Boundary lines must be shown by bearings and distances, calls for the lines of established surveys, landmarks, school districts and other data furnished in a manner sufficient to locate the property described on the ground. All block corners and angles in streets and alleys should be marked by a suitable monument. The plat must contain an arrow indicating the direction of the North point of the compass, and the required scale must be prominently shown.
- (F) **Lot/Block Dimension.** The plat must state the dimensions of, and accurately but separately describe by metes and bounds, each lot, street, alley, square, park, common area, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part. Lot and block numbers must be arranged in a systematic order and shown on the plat in distinct and legible figures.
- (G) **Water/Sewer/OSSF Disclosures.**
- (1) **Public Facilities/Constructed.** Should public or organized water, sewer, septic, and/or OSSF service and facilities be proposed for the subdivision, or be intended to be constructed or installed by the Developer to service the subdivision, the plat must contain information and documents by the Developer and his engineer describing and depicting: (a) the type and location of the proposed facilities (and any roadways and easements dedicated for the provision of service) to be constructed or installed to service the subdivision, and including suitability reports, calculations, and percolation test results; (b) a statement specifying the date by which said facilities will be fully operable; and (c) documents and a statement confirming that the plat, said facilities, and the subdivision comply with the applicable requirements of the (i) minimum state standards for the proposed facilities and service, (ii) County's water, drainage, sewer, septic, and/or OSSF regulations, (iii) County's groundwater and surface water sufficiency disclosure requirements and floodplain management regulations, and (iv) the regulations and management plans of the Water District (including Kinney County GCD) having territorial jurisdiction for water wells and related permits for the subdivision land.

- (2) **Private Facilities.** Should private groundwater, surface water, septic or OSSF facilities be proposed for the subdivision, with said facilities not to be constructed or installed by the Developer, the plat must contain information and documents (including suitability reports, calculations, and percolation test results) by the Developer and his engineer describing and depicting the: (a) type and location of the proposed facilities; and (b) documents and a statement confirming that the plat, said facilities, and the subdivision comply with the applicable requirements of the (i) minimum state standards for the proposed facilities, (ii) County's water, drainage, sewer, septic, and/or OSSF regulations, (iii) County's groundwater and surface water sufficiency disclosure requirements and floodplain management regulations, and (iv) the regulations and management plans of the Water District (including Kinney County GCD) having territorial jurisdiction regarding water wells and related permits for the land of the subdivision.
- (H) **Drainage.** The plat must describe the provision of a reasonable drainage plan approved by the Developer's engineer for the subdivision (including all roads, streets, bridges, culverts, driveways, or common use areas located therein) in accordance with standard engineering practice, and in compliance with the reasonable drainage standards described in **Appendix/Exhibit C**, in order to efficiently manage the flow of storm water runoff in the subdivision and to coordinate subdivision drainage with the general drainage pattern for the area, including a description of: (1) the exact location, dimensions, descriptions and flow line of existing and proposed future drainage structures (including bridges or culverts); and (2) the exact location, flow-line, and floodplain of existing water courses within the subdivision.
- (I) **Topographical Description.** Regarding the topography of the area and proposed subdivision land, the proposed plat, for clarity and legibility purposes, should not contain contour lines to identify the topography; however, sufficient supporting documents must be submitted to the County as a part of the plat application to identify the topography of the area and the proposed subdivision by the use of contour lines. Those contour lines on the supporting documents must be based on: (1) a vertical interval of 5 feet for terrain with a slope of 2 percent or more; (2) a vertical interval of 2 feet for terrain with a slope of less than 2 percent; and (3) data provided by the County, or in lieu thereof, data from any governmental agency or department, the identity of which must be specified. Those separate topography documents (but not the actual proposed plat) must indicate by the use of contour lines any changes in the existing topography proposed by the Developer and said contour lines must be based on the government data, vertical interval, and slope rates previously identified in this paragraph.
- (J) **Roads/Driveways, Lot Frontage, and Floodplain Description.**
- (1) Roads/Driveways.
- (a) The plat must include a description of all roads, streets, bridges, driveways, culverts, and areas of common usage in the subdivision. These descriptions

and all constructed roads, streets, bridges, culverts, driveways, and common usage areas shall comply with Texas professional engineering design and construction standards for access and public safety, and with the drainage standards described by the Regulations and **Appendix/Exhibit C**.

- (b) Regarding sufficient emergency vehicle and lot access to roads and streets, the following must be described on the plat and made the subject of compliance by the Developer: (i) the subdivision shall provide at least two point of entry/exit access to an external public road (located outside the subdivision) for a sufficient route of travel to and from each lot in the subdivision, for use by lot owners and emergency vehicles, and for use during evacuations resulting from fire or other natural disasters; and (ii) the subdivision must have internal roads or streets designed and constructed so that each lot in the subdivision shall have access to an internal road or street leading to the aforesaid entry/exit access point in the subdivision, for a sufficient route of travel to and from each lot in the subdivision, for the use by lot owners and emergency vehicles, and for use during evacuations resulting from fire or other natural disasters.
- (c) Prior to any road, street, bridge, driveway, culvert, or area of common usage being constructed to connect to an existing public road, any such transportation infrastructure or facility and related drainage structures must first be approved by the County.
- (d) The Developer shall comply with the road damage and repair provisions described in **Appendix/Exhibit E**.
- (e) The County may disapprove a submitted plat pertaining to a proposed subdivision in which the plat application documents or plat show that the subdivision: (i) lacks contiguous and direct access to an existing external public road leading to or from the subdivision; (ii) lacks sufficient and safe access to a properly designed, structurally adequate, and safe existing external public road leading to or from the subdivision, due to any reason, including the degree and type of road travel and traffic impact on and regarding said road anticipated to occur as a result of the subdivision development; or (iii) contains a proposed or existing internal road that is not or will not be properly designed, structurally adequate, and safe, due to any reason, including the degree and type of road travel and traffic impact on and regarding said road anticipated to occur as a result of the subdivision development. Should any of the aforesaid and adverse road issues exist regarding a proposed subdivision development, the County may request and/or require the following to be completed for County review prior to a decision regarding plat approval, at the Developer's sole cost and expense, in order to review and analyze those adverse road issues and determine whether any of those issues may impair or diminish public safety, traffic

efficiency or control, or the required public resources to be expended regarding any such road made the subject of review: (i) a Texas Department of Transportation study; (ii) a traffic impact study; and/or (iii) an engineering study or review.

- (2) No Acceptance Policy. The roads, streets, bridges, culverts, driveways, and/or land areas of common use in the subdivision (hereafter described as “those aforesaid land areas, facilities, or infrastructure”), if any, whether private or dedicated to public use, shall not be dedicated as County property -- and further, those aforesaid land areas, facilities, and infrastructure shall not be accepted by the County for County construction, operation, or maintenance. The County shall never be obligated in any way to construct, operate, repair, or maintain: (a) any of those aforesaid land areas, facilities, or infrastructure located in any subdivision; or (b) any non-County road which provides access to any subdivision. Furthermore, the approval, if any, of a subdivision plat by the County shall not be interpreted or construed as County acceptance of any of those aforesaid land areas, facilities, or infrastructure located in any subdivision. A subdivision plat must contain the following plat note regarding this matter:

NO ACCEPTANCE POLICY: Pursuant to the Regulations, Kinney County, Texas (“County”) typically practices a “no acceptance policy” with respect to roads, streets, bridges, culverts, driveways, and/or land areas of common use located in the subdivision (hereafter referred to as “those aforesaid land areas, facilities, or infrastructure”), whether those aforesaid land areas, facilities, or infrastructure are declared to be private or dedicated to public use. Moreover, and unless the County has determined that a specific exception to its “no acceptance policy” is warranted pursuant to the Regulations, the following is hereby declared by the County: (a) those aforesaid land areas, facilities, or infrastructure shall not be dedicated as County property, and shall not be accepted by the County for County construction, operation, or maintenance; (b) the County shall never be obligated in any way to construct, operate, repair, or maintain (i) any of those aforesaid land areas, facilities, or infrastructure located in any subdivision, or (ii) any non-County road which provides access to any subdivision. Furthermore, the approval, if any, of a subdivision plat by the County shall not be interpreted or construed as acceptance by the County of any of those aforesaid land areas, facilities, or infrastructure located in any subdivision.

- (3) Exception Regarding No Acceptance Policy. Notwithstanding anything to the contrary stated in these Regulations and prior to plat approval during the plat review process, should the Commissioners Court determine (as an exception to the

County's non-acceptance policy stated above) that a road, street, bridge, culvert, driveway, or land area of common use which is described and dedicated to the public on the plat (hereafter described as "the aforesaid dedicated facility or infrastructure") may be considered by the Commissioners Court at a later date for acceptance into the County's public road, bridge, or drainage system of operation and maintenance, then, in that event (a) the Developer must execute prior to plat approval a good and sufficient bond for the construction and maintenance of the aforesaid dedicated facility or infrastructure unless another financial guarantee (or security) is authorized by these Regulations (see **Appendix/Exhibit G**), (b) the bond or guarantee must be approved by the Commissioners Court to predicate plat approval, (c) the Developer must comply with the bond or other financial guarantee (or security) requirements of **Appendix/Exhibit G** attached to these Regulations, and (d) the certifications required for plat approval shall be accordingly revised.

- (4) **Lot Frontage.** The plat must include a description of all lot frontages in the subdivision. These descriptions and all lot frontages on the ground shall comply with the following standards hereby adopted and approved pursuant to §§ 232.101, 232.103, 232.107 of the Texas Local Government Code and other authority:
- (a) These Regulations are designed to provide reasonable standards for minimum lot frontages on existing county or other public roads (including lot frontages in relation to curves in a road) in compliance with accepted engineering practice and standards and in the interest of public safety.
 - (b) The minimum lot frontage required for lots located on county or other public roads is 100 feet unless otherwise required by state or federal law.
- (5) **Floodplain.** The plat must describe all land in the subdivision that is located in a floodplain, and contain a certification by the surveyor or engineer for the Developer that: (a) describes and identifies any area of the subdivision that is located in a floodplain, or in the alternative, states that no area of the subdivision is located in a floodplain; and (b) states that the plat and subdivision comply with the County's active floodplain management, sewer, septic/OSSF, or other development regulations related to floodplain prevention, floodplain management, or flooding.

(K) **Fire Suppression System.** The following subdivision fire suppression system standards, pursuant to §§ 232.101, 232.107, and 232.109 of the Texas Local Government Code, are adopted and approved regarding a subdivision that is not served by fire hydrants as part of a centralized water system certified by TCEQ as meeting minimum standards for water utility service:

- (1) **Subdivision with Fewer Than 50 Lots, Units, or Houses.** The Developer shall construct (and thereafter maintain at all times a fully operational system with the required quantity of water hereafter stated) a limited fire suppression system for the subdivision with a minimum of 2,500 gallons of storage, with sufficient equipment

included in the system to allow full access and connection to the operating system by emergency service providers. The subdivision plat must describe and depict the location and components of this fire suppression system.

- (2) Subdivision of 50 or More Lots, Units, or Houses. The Developer shall construct (and thereafter maintain at all times a fully operational system with the required quantity of water hereafter stated) a limited fire suppression system for the subdivision with (a) a minimum of 2,500 gallons of storage with a centralized water system, or (b) 5,000 gallons of storage, and further, with sufficient equipment included in the system to allow full access and connection to the operating system by emergency service providers. The subdivision plat must describe and depict the location and components of this fire suppression system.

- (L) **Purchase Contract Disclosure.** Pursuant to § 232.003 of the Texas Local Government Code, each purchase contract between a Developer and a purchaser of land in the subdivision, and any approved subdivision plat, must contain a statement describing the extent to which water will be made available to the subdivision, and if water will be made available to the subdivision, how and when water will be made available.

(M) **Water Availability Requirements.**

- (1) Groundwater Sufficiency Disclosure Statement for Applications Submitted Before January 1, 2024.

Pursuant to §§ 232.0032, 232.101, and 232.107 of the Texas Local Government Code and other authority, if the source of the water supply intended for the subdivision is groundwater under that land, the Plat Application and plat must have attached to it a statement that: (a) is prepared for the Developer by an engineer or geoscientist licensed to practice in Texas; and (b) certifies that adequate groundwater is available for the subdivision pursuant to minimum state standards.

The form and content of this certification of groundwater availability shall be in compliance with all applicable rules of TCEQ as required by said § 232.0032 of the Texas Local Government Code, including without limitation: (a) the regulations contained in 30 TAC §§ 230.1-230.11; and (b) the requirements of the Groundwater Availability Certification Form (TCEQ Form No. 20982, effective December 22, 2023 or as amended), a copy of which is attached as **Appendix/Exhibit L**. This required certification form regarding groundwater availability shall be attached to the plat application as required by § 232.0032 of the Texas Local Government Code.

Should this plat certification be required, the Developer also shall transmit to the TWDB and any Water District (including the Kinney County GCD, as the case may be) that includes in the district's boundaries any part of the subdivision, as required by said §232.0032 and all applicable rules of TCEQ and TWDB, information that

would be useful in: (a) performing groundwater conservation district activities; (b) conducting regional water planning; (c) maintaining the state's groundwater base; or (d) conducting studies for the state related to groundwater. Prior to the approval, if any, of the plat by the Commissioners Court, the Developer shall confirm and verify in writing to the Commissioners Court that all required information pursuant to said §232.0032 and this provision § 3.26 (M)(1) has been transmitted to the TWDB and an applicable Water District if herein required.

- (2) Groundwater Sufficiency Disclosure Statement for Applications Submitted on or after January 1, 2024.

Pursuant to and in compliance with §§ 232.0032, 232.101, and 232.107 of the Texas Local Government Code, if the source of the water supply intended for the subdivision is groundwater under that land, the Plat Application and plat must have attached to it a statement that: (a) is prepared for the Developer by an engineer or geoscientist licensed to practice in Texas; and (b) certifies that adequate groundwater is available for the subdivision pursuant to minimum state standards.

The form and content of this certification of groundwater availability shall be in compliance with all applicable rules of TCEQ as required by § 232.0032 of the Texas Local Government Code, including without limitation: (a) the regulations contained in 30 TAC §§ 230.1-230.11; and (b) the requirements of the Groundwater Availability Certification Form (TCEQ Form No. 20982, effective December 22, 2023 or as amended), a copy of which is attached as **Appendix/Exhibit L**. This required certification form regarding groundwater availability shall be attached to the plat application as required by § 232.0032 of the Texas Local Government Code.

Should this plat certification be required, the Developer also shall transmit to the TWDB and any Water District (including the Kinney County GCD, as the case may be) that includes in the district's boundaries any part of the subdivision, as required by said §232.0032 and all applicable rules of TCEQ and TWDB, information that would be useful in: (a) performing groundwater conservation district activities; (b) conducting regional water planning; (c) maintaining the state's groundwater base; or (d) conducting studies for the state related to groundwater. Prior to the approval, if any, of the plat by the Commissioners Court, the Developer shall confirm and verify in writing to the Commissioners Court that all required information pursuant to said §232.0032 and this provision § 3.26 (M)(2) has been transmitted to the TWDB and an applicable Water District if herein required.

Notwithstanding anything to the contrary stated in this § 3.26 (M)(2), the Commissioners Court may waive -- but is not required to waive -- the requirement, as described above, that the plat application must have attached to it that certain certification of groundwater availability document described in this provision (M)(2) above (see **Appendix/Exhibit L**), if:

- (a) based on credible evidence of groundwater availability in the vicinity of the proposed subdivision, the Commissioners Court determines that sufficient groundwater is available and will continue to be available to the subdivided tract of land; and
- (b) either:
 - (i) the entire tract proposed to be subdivided by the plat will be supplied with groundwater from the Gulf Coast Aquifer or the Carrizo-Wilcox Aquifer; or
 - (ii) the proposed subdivision divides the tract into not more than 10 parts.

Notwithstanding anything to the contrary stated above regarding the aforesaid and described waiver, a person subject to and granted the waiver, as authorized by this § 3.26 (M)(2) regarding a subdivided tract of land, must nevertheless comply with the requirements of this § 3.26 (M)(2) and submit the required groundwater availability certificate (see **Appendix/Exhibit L**) if: (a) the tract is subsequently divided in a manner that results in the original tract being subdivided into more than 10 parts; or (b) the Commissioners Court determines that the proposed subdivision is part of a series of proposed subdivisions from an original tract that collectively includes more than 10 parts.

- (3) **Compliance with the Kinney County GCD Regulations.** Pursuant to §§ 232.101 and 232.107 of the Texas Local Government Code and other authority, the Developer's subdivision plat and related application shall demonstrate that the subdivision is in compliance with the then current Kinney County GCD regulations, and further, the plat shall contain a: (a) certification by the General Manager of said district stating that the plat is in compliance with the active Kinney County GCD regulations; and (b) plat note stating that all water wells described in the plat, or to be constructed, used, and operated in the subdivision, shall be in compliance with the then active Kinney County GCD regulations. The County reserves all rights to consult with the Kinney County GCD and seek its non-binding recommendations regarding the sufficiency of a subdivision plat and supporting documents submitted by a Developer to the County for approval, particularly in reference to the compliance of the submitted plat and supporting documents with the then active regulations of said district. The County encourages all Developers, prior to the submission of a subdivision plat application to the County, to consult with the Kinney County GCD to determine the: (a) active regulations of said district which apply to the proposed subdivision development; and (b) requirements for approval of any proposed subdivision plat and related development project issues in order to comply with said district's then active regulations.
- (4) **Surface Water Sufficiency.** Pursuant to §§ 232.101 and 232.107 of the Texas

Local Government Code and other authority, and if the source of the water supply intended for the subdivision is surface water, the Plat application and plat shall have attached to it a surface water sufficiency statement that: (a) is prepared for the Developer by an engineer or geoscientist licensed to practice in Texas; and (b) certifies through sufficient written and attached evidence that (i) adequate surface water is available for the subdivision pursuant to minimum state standards, and (ii) sufficient water rights have been obtained and dedicated, either through acquisition or a wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for not less than 30 years.

- (5) **Water Facilities Development/Transportation of Potable Water.** Pursuant to §§ 232.101 and 232.107 of the Texas Local Government Code and other authority, the conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the Developer does not constitute an emergency.
- (N) **Use of Firearms, Bows, and Arrows.** Regarding the use of firearms, bows, and arrows, in certain subdivisions, the following standards are adopted and approved pursuant to §§ 232.101, 232.107, and 235.020-.045 of the Texas Local Government Code and other authority:
- (1) **Definitions.** Notwithstanding anything to the contrary stated in these Regulations: (a) this paragraph N applies to a subdivision which is located in the unincorporated area of the county and for which a plat is required by Chapter 232 of the Texas Local Government Code and these Regulations; (b) **“air gun”** shall mean any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring, as defined by § 229.001 of the Texas Local Government Code; and (c) **“hunting”** shall mean to hunt (i.e., to capture, trap, take, or kill, or an attempt to capture, trap, take, or kill), as defined by § 1.101 of the Texas Parks and Wildlife Code.
- (2) **Firearm Use.** To promote public safety, the Commissioners Court hereby prohibits the discharge of firearms on lots that are 10 acres or smaller and located in the unincorporated area of the county in a subdivision; however, this regulation shall not be construed to prohibit the lawful discharge of air guns on the aforesaid lots or as otherwise allowed by law. This regulation does not authorize the Commissioners Court to regulate the transfer, ownership, possession, or transportation of firearms or air guns and does not authorize the Commissioners Court to require the registration of firearms or air guns. Any person is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this regulation from continuing or occurring. A person commits an offense if the person intentionally or knowingly engages in conduct that is a violation of this regulation. An offense under this regulation is a Class C misdemeanor. If it is shown on the trial of an offense under this regulation that the person has previously been convicted of an

offense under this section, the offense is a Class B misdemeanor.

- (3) **Bow/Arrow Use.** To promote public safety, the Commissioners Court hereby prohibits hunting with bows and arrows on lots that are 10 acres or smaller and located in the unincorporated area of the county in a subdivision. This regulation does not authorize the Commissioners Court to regulate the transfer, ownership, possession, or transportation of bows and arrows and does not authorize the Commissioners Court to require the registration of bows and arrows. Any person is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this regulation from continuing or occurring. A person commits an offense if the person intentionally or knowingly engages in conduct that is a violation of this regulation. An offense under this regulation is a Class C misdemeanor. If it is shown on the trial of an offense under this regulation that the person has previously been convicted of an offense under this section, the offense is a Class B misdemeanor.
- (O) **Plat Format.** The Plat Application must include a digital map that is: (1) compatible with other mapping systems used by the County and that georeferences the subdivision plat and related public infrastructure using the Texas Coordinate Systems adopted under Section 21.071 of the Texas Natural Resources Code; and (2) in a format widely used by common geographic information system software. An exemption from this requirement shall exist if the Developer submits with the Plat Application an acknowledged statement indicating that the digital mapping technology necessary to submit a map that complies with this subsection was not reasonably accessible. The original plat must be prepared on Mylar (preferred by the County), or by the use of other material and methods of a permanent nature in general use by the engineering profession. The plat must be drawn to scale on plat sheets of at least the following dimension: 18 inches by 24 inches. The Developer shall provide to the County: (1) the original plat (for County execution, filing, and recordation -- including all required and attached documents) and, if desired by the Developer, one clearly marked, same-size copy of the original plat for the Developer; and (2) for County review, six reduced size paper copies of the original plat, either 8.5 inches by 11 inches or 11 inches by 17 inches in dimension. The plat must be drawn according to the following scale: (1) one inch to 100 feet; or (2) one inch to 200 feet. Linear dimensions shall be shown in feet and hundredths of one foot. Angle dimension shall be shown in degrees, minutes, and seconds. Curve dimensions shall be shown through radius, arc, chord distance, and bearing.
- (P) **Building or Set-Back Lines.** Pursuant to §§ 232.101, 232.104 and 233.032 of the Texas Local Government Code, and for the promotion of the general welfare and safety of the public, the following standards are adopted, and approved for building and set-back lines in subdivisions: the plat shall describe and depict a twenty (20) foot building and set-back line on the front, sides, and rear of all lots or other divided parts in the subdivision.
- (Q) **Limitations Regarding County Construction/Maintenance Obligations.** The plat must contain the following statements regarding the express limitations regarding County

construction or maintenance obligations:

- (1) Relating to any public dedication on the plat:

FOR ANY LAND, ROAD, EASEMENT, IMPROVEMENT, FACILITY, OR OTHER PROPERTY DEDICATED FOR PUBLIC USE ON THIS PLAT, AND UPON APPROVAL, IF ANY, OF THIS PLAT BY THE KINNEY COUNTY COMMISSIONERS COURT, KINNEY COUNTY EXPRESSLY DOES NOT ACCEPT FOR CONSTRUCTION OR MAINTENANCE PURPOSES SAID DEDICATED PROPERTY. UPON PLAT APPROVAL, THE CONSTRUCTION OR MAINTENANCE OF SAID PROPERTY SHALL REMAIN THE RESPONSIBILITY OF ITS OWNER, IN ACCORDANCE WITH THE PROVISIONS OF THE SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS FOR KINNEY COUNTY, TEXAS.

- (2) Relating to any private land or improvements on the plat:

KINNEY COUNTY EXPRESSLY DOES NOT ACCEPT FOR CONSTRUCTION OR MAINTENANCE PURPOSES ANY LAND, ROAD, EASEMENT, IMPROVEMENT, FACILITY, OR OTHER PROPERTY DESCRIBED ON THIS PLAT FOR PRIVATE OWNERSHIP OR USE. UPON APPROVAL OF THIS PLAT, IF ANY, BY THE KINNEY COUNTY COMMISSIONERS COURT, ANY SUCH PRIVATE PROPERTY SHALL BE OWNED BY AND REMAIN THE RESPONSIBILITY ITS OWNER, IN ACCORDANCE WITH THE SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS FOR KINNEY COUNTY, TEXAS.

- (R) **Owner/Developer Signature and Disclosure.** Upon plat approval, the Developer shall: (1) sign and date the plat and all required or attached documents; (2) acknowledge the plat in the manner required for the acknowledgment of deeds; and (3) attest by affidavit to the veracity and completeness of the matters described in the plat and all attached documents by stating the following on the plat:

I CERTIFY THAT: (1) THIS PLAT, INCLUDING ALL ATTACHED DOCUMENTS AND PLAT NOTES ARE IN COMPLIANCE WITH THE SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS FOR KINNEY COUNTY, TEXAS; (2) THE REPRESENTATIONS ON THIS PLAT, INCLUDING ALL ATTACHED DOCUMENTS AND PLAT NOTES ARE TRUE AND CORRECT; (3) THE OWNER AND DEVELOPER SHALL COMPLY WITH SAID REGULATIONS; AND (4) ALL

DEDICATED LAND, ROADS, EASEMENTS, IMPROVEMENTS, FACILITIES, OR OTHER PROPERTY, IF ANY, DESCRIBED ON THIS PLAT ARE DEDICATED TO THE USE AND BENEFIT OF THE PUBLIC FOREVER.

 NAME (TYPE NAME): _____
 TITLE: _____
 DATE: _____, 20____
 OWNER OR DEVELOPER

SWORN TO AND SUBSCRIBED BEFORE ME, THE UNDERSIGNED AUTHORITY, BY THE AFORESAID _____, ON THIS THE ____ DAY OF _____, 20____.

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THE ____ DAY OF _____, 20____ BY _____, THE _____ OF _____, IDENTIFIED TO ME AS THE OWNER OR DEVELOPER OF THE REAL PROPERTY MADE THE SUBJECT OF THE SUBDIVISION DESCRIBED IN THIS INSTRUMENT.

 NOTARY PUBLIC, STATE OF TEXAS
 MY COMMISSION EXPIRES: _____

NOTARY STAMP

- (S) **Lien Subordination Disclosure.** The plat upon approval shall contain statements, signed and acknowledged by the Developer and any lienholder (current addresses shown), which certify lienholder consent and lien subordination to all public dedications.
- (T) **Surveyor Signature/Disclosure.** The plat shall contain a signature, seal, certification, and date by the surveyor for the Developer which states the following:

I CERTIFY THE FOLLOWING: (1) THIS PLAT, INCLUDING ALL ATTACHED DOCUMENTS AND PLAT NOTES REPRESENT A TRUE AND ACCURATE SURVEY ON THE GROUND MADE BY ME OF THE SUBDIVISION IDENTIFIED; (2) ALL REQUIRED SURVEY MONUMENTS ARE CORRECTLY SHOWN ON THIS PLAT; (3) ALL EXISTING EASEMENTS AND RIGHTS OF WAY ARE SHOWN ON THIS PLAT ACCORDING TO DOCUMENTS OF RECORD OR APPARENT CIRCUMSTANCES OBSERVED ON THE LAND; (4) THE PERIMETER FIELD NOTES ARE ACCURATELY TIED TO AN ORIGINAL CORNER OF THE

ORIGINAL SURVEY; (5) THIS PLAT AND ALL ATTACHED DOCUMENTS AND PLAT NOTES COMPLY WITH ALL SURVEYING AND PLAT DRAFTING REQUIREMENTS OF THE SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS FOR KINNEY COUNTY, TEXAS; AND (6) ALL SURVEYING REPRESENTATIONS ON THIS PLAT ARE IN COMPLIANCE WITH THE CURRENT STANDARDS OF REGISTERED AND LICENSED PROFESSIONAL LAND SURVEYING PRACTICE IN THE STATE OF TEXAS.

NAME (TYPE NAME): _____
TITLE: _____
DATE: _____, 20____
SURVEYOR FOR OWNER OR DEVELOPER

- (U) **Developer Engineer Signature/Disclosure** -- The plat shall contain a signature, seal, certification, and date by the engineer for the Developer which states the following:

I CERTIFY THE FOLLOWING: (1) THIS PLAT AND ALL ATTACHED DOCUMENTS AND PLAT NOTES REGARDING THE SUBDIVISION IDENTIFIED SATISFY ALL REQUIREMENTS OF THE SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS FOR KINNEY COUNTY, TEXAS; AND (2) ALL ENGINEERING OR DESIGN REPRESENTATIONS ON THIS PLAT AND ALL ATTACHED DOCUMENTS AND PLAT NOTES ARE IN COMPLIANCE WITH THE CURRENT STANDARDS OF REGISTERED AND LICENSED PROFESSIONAL ENGINEERING PRACTICE IN TEXAS.

NAME (TYPE NAME): _____
TITLE: _____
DATE: _____, 20____
ENGINEER FOR OWNER OR DEVELOPER

- (V) **Commissioners Court Approval.** The plat upon approval must contain a signature, certification, and acknowledgment by the County Judge, as hereafter stated:

I CERTIFY THE FOLLOWING: (1) THIS PLAT FOR THE IDENTIFIED SUBDIVISION WAS APPROVED ON _____, 20____ BY THE COMMISSIONERS COURT OF KINNEY COUNTY, TEXAS IN ACCORDANCE WITH CHAPTER 232 OF THE TEXAS LOCAL GOVERNMENT CODE, CHAPTER 551 OF THE TEXAS GOVERNMENT CODE (THE TEXAS OPEN MEETINGS ACT), AND OTHER AUTHORITY; AND (2) THIS PLAT IS AUTHORIZED FOR FILING AND

RECORDING WITH THE DISTRICT-COUNTY CLERK OF KINNEY COUNTY, TEXAS PURSUANT TO THE SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS FOR KINNEY COUNTY, TEXAS.

NAME (TYPE NAME): _____
COUNTY JUDGE, KINNEY COUNTY, TEXAS
DATE: _____, 20__

ATTEST:

NAME (TYPE NAME): _____
DISTRICT-COUNTY CLERK, KINNEY COUNTY, TEXAS
DATE: _____, 20__

COMMISSIONERS COURT SEAL

- (W) **County Engineer Approval.** If reviewed by a Texas registered professional and licensed engineer engaged by the County for plat review and consultation, and if the proposed subdivision and plat are in compliance with these Regulations, to obtain County approval, said engineer must sign and seal the plat, and state on said plat the following:

I CERTIFY THE FOLLOWING: (1) THIS PLAT AND ALL ATTACHED DOCUMENTS AND PLAT NOTES REGARDING THE SUBDIVISION IDENTIFIED SATISFY ALL REQUIREMENTS OF THE SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY REGULATIONS FOR KINNEY COUNTY, TEXAS; AND (2) ALL ENGINEERING OR DESIGN REPRESENTATIONS ON THIS PLAT AND ALL ATTACHED DOCUMENTS AND PLAT NOTES ARE IN COMPLIANCE WITH THE CURRENT STANDARDS OF REGISTERED AND LICENSED PROFESSIONAL ENGINEERING PRACTICE IN TEXAS.

NAME (TYPE NAME): _____
TITLE: _____
DATE: _____, 20__
ENGINEER FOR KINNEY COUNTY, TEXAS

- (X) **District-County Clerk Certification.** The District-County Clerk must: (1) attest and certify the signature of the County Judge on the approved plat; and (2) show on the plat the date of the Commissioners Court action which approved the plat and authorized its filing. The District-County Clerk’s plat authorization certificate (or recording acknowledgement) shall state as follows:

THIS PLAT OF THE IDENTIFIED _____ SUBDIVISION LOCATED IN KINNEY COUNTY, TEXAS WAS APPROVED BY THE COMMISSIONERS COURT OF KINNEY COUNTY, TEXAS, ON THE ____ DAY OF _____, 20____, PURSUANT TO THE APPROVAL AND ENTRY OF ORDER NO. _____ OF THE COMMISSIONERS COURT.

THIS PLAT OF THE AFORESAID AND IDENTIFIED SUBDIVISION WAS FILED FOR RECORD ON THE ____ DAY OF _____, 20____ AT _____ O'CLOCK ____ .M., AND RECORDED ON THE ____ DAY OF _____, 20____ AT _____ O'CLOCK ____ .M., IN THE PLAT RECORDS OF KINNEY COUNTY, TEXAS MAINTAINED BY MY OFFICE, PURSUANT TO INSTRUMENT NO. _____ THEREIN.

 NAME (TYPE NAME): _____
 DISTRICT-COUNTY CLERK, KINNEY COUNTY, TEXAS
 DATE: _____, 20____

DISTRICT-COUNTY CLERK SEAL

When the plat is filed and recorded in the Office of the District-County Clerk, said clerk must conspicuously mark and record the plat in the plat records or other official public records of said office, noting on the plat and the internal records of said office the date and time of filing, and the volume/book and page of the record where the plat was recorded. Upon "approval" of the plat by the Commissioners Court, the District-County Clerk shall not in any way mark, record, recite, or describe the plat as "accepted" by the Commissioners Court. Pursuant to these Regulations, it shall be expressly understood that "acceptance" of the plat (and/or the land, roads, easements, improvements, or other property, facilities, or infrastructure dedicated to the public on the plat), can only occur, if ever, by a subsequent, separate acceptance order being enacted and approved by the Commissioners Court through a recorded vote at a public meeting in compliance with the Regulations.

- (Y) **Additional Plat Certifications.** The following additional certifications, in language deemed sufficient by the certifying person or entity, shall appear on the plat: (1) the Water District (including Kinney County GCD) having territorial jurisdiction regarding water wells and related permits for the land of the subdivision, shall certify on the plat that (a) the Developer and/or all lot owners in the subdivision shall comply with the permitting, registration, use, spacing, and pumping requirements of said district, and (b) all water wells shall be in compliance with said district requirements; (2) the applicable electric and gas utility service providers for the subdivision shall certify on the plat that electric and gas utility service is (a) currently available to all lots of the subdivision, or can be made available in the future to all lots in the subdivision, subject to proper application, permitting, infrastructure, and/or utility easement acquisition, and (b) the easements shown on the plat are of sufficient nature, shape, and size to accommodate electric utility service to all lots in the subdivision; (3) the wastewater, sewer, and septic/OSSF facilities shown

on the plat or intended for the subdivision shall be certified by the Developer, the Developer's engineer, and the County's wastewater, sewer, and septic/OSSF regulation officer (or agent or designee) as being in all things compliant with minimum state standards and as herein required; and (4) all other required plat certifications, notes, or statements described in these Regulations.

- (Z) **Utility Connection Requirements.** Pursuant to §§ 232.029, 232.101 and 232.106-232.107 of the Texas Local Government Code, the utility connection standards, requirements, and procedure described in **Appendix/Exhibit F** are adopted and shall apply for all subdivisions subject to regulation pursuant to these Regulations.
- (AA) **Developer Participation Contracts.** Pursuant to the provisions of § 232.105 of the Texas Local Government Code and other authority, the County hereby adopts and approves its authority to make, but not its obligation to make, Developer participation contracts with a Developer of a subdivision or land in the unincorporated area of Kinney County, Texas to construct public improvements, but not including a building, related to the development. Such contracts, if any, shall be made and implemented using the lawful authority, discretion, and best business judgment of the Commissioners Court, and in the manner and procedure authorized by the aforesaid statute. The County reserves the right not to make a proposed Developer participation contract should the discretion and best business judgment of the Commissioners Court indicate that the making and implementation of such a contract would not be in the County's best public interests.
- (BB) **Access by Emergency Vehicles.** As a matter of public health, safety, and welfare, and pursuant to §§ 232.101 and 232.107 of the Texas Local Government Code, the plat application and the plat must show that at least two means of ingress and egress in the subdivision shall be provided for sufficient routes of travel for use by emergency vehicles and for use during evacuations resulting from fire or other natural disasters.
- (CC) **Future Transportation Corridors.** Pursuant to §§ 232.0033, 232.101, and 232.107 of the Texas Local Government Code, if all or part of a subdivision for which a plat is required under these Regulations is located within a future transportation corridor identified in an agreement under § 201.619 of the Texas Transportation Code, please note the following:
- (1) The Commissioners Court may refuse to approve the plat for recordation unless the plat states that the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.
 - (2) The Commissioners Court may refuse to approve the plat for recordation if all or part of the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.
 - (3) Each purchase contract or lease between the Subdivider and a purchaser or

lessee of land in the subdivision must contain a conspicuous statement that the land is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.

- (4) The Commissioners Court or the Court's designee may not refuse to review a plat application or refuse to approve a plat for recordation for failure to identify a corridor, as defined by Section 201.619 of the Texas Transportation Code, unless the corridor is part of an agreement between the Texas Department of Transportation and the County under that section.

§ 3.27 Plat Exceptions.

(A) **Statutory and Local Exceptions.**

- (1) **Statutory Exceptions.** A subdivision plat is not required to be filed if the facts establish one or more of the specific plat exceptions described in § 232.0015 of the Texas Local Government Code; however, an exception pursuant to § 232.0015 does not apply regarding a subdivision subject to regulation pursuant to the Border County Rules or Model Subdivision Rules unless the exception is expressly authorized by those rules.
- (2) **Local Exception.** Pursuant to § 232.0015(a) of the Texas Local Government Code (stating in part that a county need not require platting for every division of land otherwise within the scope of Subchapter A of Chapter 232 of said code), the following local exception is adopted for use and application for subdivisions described in these Regulations; however, a local exception does not apply regarding a subdivision subject to regulation pursuant to the Border County Rules or Model Subdivision Rules unless the exception is expressly authorized by those rules: a subdivision plat is not required to be filed if a division of land occurs pursuant to a final judgment issued by a court in a lawsuit or probate proceeding.

- (B) **Previously Platted Lots.** Pursuant to § 232.010 of the Texas Local Government Code, the conveyance of portions of one or more previously platted lots by metes and bounds description may be authorized by the Commissioners Court to occur without revising the approved and recorded plat if: (1) the conveyance does not violate, alter, amend, diminish, or remove, any recorded covenants, restrictions, or vested property rights; and (2) a variance is obtained pursuant to these Regulations.

- (C) **911 Emergency Service Addressing.** Should a plat not be required by these Regulations, the Developer is requested to submit to the County (at no charge to the Developer) the location of the development project to the following public office in order to confirm correct information for 911 and emergency service addressing purposes: the County Judge at the notice address described in § 3.1 of these Regulations.

§ 3.28 Variances.

- (A) **Procedure.** These provisions variance provisions are adopted for use and application for subdivisions described in these Regulations, except regarding a subdivision subject to regulation pursuant to the Border County Rules or Model Subdivision Rules, unless expressly authorized by those rules. When applicable, these provisions apply to variance requests by a Developer seeking: (1) plat approval regarding proposed subdivision development; or (2) MHRC and related infrastructure development plan approval. A variance, if granted, must be the result of the Commissioners Court acting through a recorded vote at a public meeting.
- (B) **Application.** A Developer may request a variance from the County through the timely submission of a written variance request to the County Judge at the notice address described in § 1.3. Regarding a variance sought from the County's subdivision regulations, the variance request must be submitted with the Subdivision Plat Application as described in Appendix/Exhibit A, and a total variance application fee of \$250.00 must be paid to the County for each subdivision variance requested (as described in Appendix/Exhibit D -- and meaning that the total variance fee required shall be \$250.00 whether one or more variances are requested). Regarding a variance sought from the County's MHRC regulations, the variance request must be submitted with the MHRC Application as described in **Appendix/Exhibit B.**
- (C) **Prohibition.** The Commissioners Court may not grant a variance regarding: (1) the necessity of an approved plat or MHRC development plan if required by the Regulations; (2) a required bond or other financial security; (3) the payment of fees -- unless, in the sole discretion and best business judgment of the Commissioners Court, the payment of all or part of the fees is not required and a variance may granted because (a) the applicant is the State government, United States government, other unit of government, or a non-profit entity, or (b) the application constitutes a request for a plat application revision or supplement (prior to plat approval), or constitutes a request for plat cancellation, revision, or amendment (subsequent to plat approval), and in either event, all prior fees were properly and timely paid to the County; (4) a variance which violates the variance standards hereafter described; and (5) a variance from compliance with the Border County Rules or the Model Subdivision Rules, unless expressly authorized by those rules. Pecuniary hardship standing alone does not constitute an undue hardship or special circumstance to support the granting of a variance, except regarding the specific circumstances described in this paragraph.
- (D) **Standards.** A variance to these Regulations may be granted by the Commissioners Court, when the submitted evidence and the attendant circumstances establish, in the sole discretion and best business judgment of the Commissioners Court, the following:
- (1) a special circumstance must exist which, if these Regulations are strictly enforced, will deprive the Developer of a privilege, use, or safety enjoyed by similarly situated property owners or developers with similarly timed development of the

- same nature and scope;
- (2) the variance will constitute only a minimum departure from the Regulations, and will not constitute a violation of state or federal law;
 - (3) the variance will not create a special privilege, use, or safety for the Developer that is not enjoyed by similarly situated property or developers with similarly timed development of the same nature or scope;
 - (4) the variance must be based on the general intent of the Regulations and deemed to be in the public interest;
 - (5) the variance must not prevent or impair the safe, healthy, or orderly development of other land in the area in accordance with the Regulations; and
 - (6) an ad valorem tax delinquency must not exist regarding the land made the subject of the proposed development.

§ 3.29 Plat Submission and Review.

- (A) **Application.** The County's Subdivision Plat Application Form is described in **Appendix/Exhibit A**. Said application shall be provided at no cost to the public: (1) at the office of the County Judge at the notice address described in § 1.3 of the Regulations; and (2) on the County's internet website at www.co.kinney.tx.us. The Plat Application Form describes all required documentation for submission by the Developer to the County of a completed Plat Application.

A completed Plat Application shall constitute and contain (among other things herein described): (1) the fully completed and executed application; (2) the business address and contact information of the applicant and owner; (3) an executed plat and all supporting documents as herein described; (4) a copy of the owner's active and recorded deed to the subdivision land, thereby verifying that current and full fee simple title is held by the owner to said land; (5) sufficient written evidence (in the form of a tax certificate or other tax entity issued document) showing that an ad valorem tax delinquency does not exist regarding the subdivision land; (6) should the application be signed by an agent of the developer or owner, sufficient written evidence of the existence of that agency relationship authorizing the agent to execute the application on behalf of the owner and represent the owner regarding matters pertaining to the application and subdivision; (7) complete copies of the completed plat application, original plat, and all attached or enclosed documents thereto, as herein described by number and form, which documents shall be saved, stored, and submitted to the County in a universal serial bus (or USB) flash drive data storage device; (8) payment for all required fees, as described on the fee schedule attached as **Appendix/Exhibit D**; and (9) all other information and documents required by these Regulations.

(B) **Submission of Completed Application/Notice of Incomplete Application.**

- (1) A completed Plat Application shall be submitted by the Developer to the County Judge at the notice address described in § 1.3.
- (2) County acceptance of a submitted Plat Application shall not constitute plat approval by the County.
- (3) Pursuant to § 232.0025(b) of the Texas Local Government Code, if a Developer submits a Plat Application to the County that does not include all of the documentation or other information required by law and these Regulations, the County shall, not later than the 10th business day after the date the County receives the application, notify the applicant of the missing documents or other information. The County shall allow an applicant to timely submit the missing documents or other information.

(C) **Review.** Upon submission of a completed Plat Application, the County will review the application, proposed plat, and supporting documents for completeness, sufficiency, and compliance with the Regulations. The County shall act on the completed application and proposed plat pursuant to the review, approval, approval with conditions, and disapproval procedures and requirements of §§ 232.001-.005, 232.008-.011, 232.101-.110, 232.901, and 247.001-.006 (including 232.002 through 232.028) of the Texas Local Government Code. Pursuant to said authority, the Commissioners Court:

- (1) must approve a submitted plat by a recorded vote at a public meeting, by an order entered into the official Court minutes, should the plat be: (a) the result a completed Plat Application; (b) supported by a good and sufficient bond or other financial security (see **Appendix/Exhibit G**) if required by the Regulations; and (c) in all things complete, sufficient, and in compliance with all requirements prescribed by law and these Regulations, including the payment of all required fees; and
- (2) may approve with conditions or disapprove a submitted plat by a recorded vote at a public meeting by an order entered into the official Court minutes, should: (a) the plat not comply with all requirements prescribed by law and these Regulations; (b) the required fees not be paid; (c) a delinquent ad valorem tax liability exist for the land made the subject of the proposed development; or (d) the plat not be supported by a good and sufficient bond or other financial security, if required by the Regulations.

(D) **Plat Amendment, Revision, and Cancellation.** The County adopts the following authority for use in these Regulations, as described in **Appendix/Exhibit I**: (1) the plat procedure specified by §§ 232.008 (general plat cancellation), 232.0083 (obsolete plat cancellation), and 232.0085 (cancellation regarding undeveloped land) of the Texas Local Government Code; (2) the plat revision procedure requirements of § 232.009 of said code; (3) the plat amendment requirements and procedure of § 232.011 of said code; (4) the

dormant project and plat requirements of §§ 232.002(c) and 245.005(a)-(c) of said code; and (5) the Border Rules application statutes of §§ 232.039-.044.

[End County Standard Rules]

**ARTICLE 4 – MANUFACTURED HOME RENTAL COMMUNITY
REGULATIONS AND FEE SCHEDULE**

- § 4.1 **Manufactured Home Rental Community Regulations.** Pursuant to § 232.007, Texas Local Government Code, the Commissioners Court approves and adopts the following regulations for Manufactured Home Rental Communities located in the unincorporated area of the county.
- (A) **Application.** The County’s Manufactured Home Rental Community Application Form is described in **Appendix/Exhibit B**. It shall be provided at no cost to the public at the office of the County Judge, at the notice address described in § 1.3 of these Regulations. The MHRC Application form describes all required documents for submission by the Developer to the County of a completed MHRC application.
- (B) **Completed Application.** A completed MHRC application shall constitute: (1) the fully completed and executed application; (2) the required and executed infrastructure development plan (“**plan**”) and all supporting documents as herein described; and (3) written evidence (in the form of a tax certificate or other tax entity issued document) showing that an ad valorem tax liability does not exist on the land made the subject of the MHRC development project.
- (C) **Infrastructure Development Plan.** Construction and occupancy of a proposed MHRC may not begin before the plan has been approved by the County, as follows:
- (1) **Drainage.** The plan shall: (a) provide adequate drainage for the MHRC, including all streets or roads therein, in accordance with standard engineering practices as described in these Regulations for Subdivisions; (b) specify necessary drainage culverts and other drainage facilities for the MHRC; and (c) identify all areas of the MHRC located in the floodplain, if any. Drainage requirement shall comply with the drainage standards for subdivisions as described in **Appendix/Exhibit C** of these Regulations.
 - (2) **Water.** The plan shall describe: (a) the provision of an adequate public or community drinking water supply to the MHRC in accordance with minimum state standards and the water availability and disclosure obligations in § 3.26 of these Regulations; and (b) the location of all facilities and supply lines for said water supply in accordance Subchapter C, Chapter 341, Texas Health and Safety Code.
 - (3) **Sewer, Septic, OSSF.** The plan shall describe and specify the provision of access of the MHRC to sanitary sewer or septic facilities and lines (including OSSF), in

accordance with minimum state standards and including: (a) providing and identifying the location of all sanitary sewer facilities and lines; (b) providing and identifying adequate sewer, septic, or OSSF facilities and lines in accordance with minimum state standards (including Chapter 366, Texas Health and Safety Code), and § 3.26 of these Regulations.

- (4) **Survey.** The plan shall contain a land survey of the MHRC performed by a Texas registered professional land surveyor (on the ground), and shall identify: (a) the proposed MHRC boundaries, and any significant features located therein; (b) the proposed location of all spaces, lots, or other parts of the MHRC; (c) the proposed or existing utility, road, and drainage easements; and (d) the dedications of easements and rights-of-way, if any.
- (5) **Roads.** The plan shall identify and describe all roads in the MHRC. Those roads shall be designed and constructed to comply with following standards, and to provide ingress and egress for emergency vehicles and lot or space users: as described in § 3.26 of these Regulations. The MHRC Developer shall comply with the road damage and repair provisions described in **Appendix/Exhibit E**.
- (6) **Compliance.**
- (a) The plan shall demonstrate lawful compliance with: (i) all applicable requirements of these Regulations, the statutes and regulations of Texas and United States governments and their administrative agencies; (ii) the County's floodplain, water, drainage, sewer, and/or septic regulations; (iii) the regulations of the Water District (including Kinney County GCD) having territorial jurisdiction regarding water wells and related permits for the land of the MHRC, including compliance with the permitting, registration, use, spacing, and pumping requirements of said district; (iii) the electric and gas utility service provider regulations or requirements for the MHRC, with the inclusion of a provider certification on the plan showing that electric and gas utility service will be available to all lots or spaces in the MHRC and (iv) minimum state standards for water and wastewater service to all lots or spaces in the MHRC.
- (b) The plan also shall demonstrate that the MHRC is in compliance with the then current Kinney County GCD regulations, and further, the plan shall contain a: (i) certification by the General Manager of said district stating that the plat is in compliance with the active Kinney County GCD regulations; and (ii) plan note stating that all water wells described in the plat, or to be constructed, used, and operated in the subdivision, shall be in compliance with the then active Kinney County GCD regulations. The County reserves all rights to consult with the Kinney County GCD and seek its non-binding recommendations regarding the sufficiency of a plan and supporting documents submitted by a Developer to the County for approval,

particularly in reference to the compliance of the submitted plan and supporting documents with the then active regulations of said district.

- (c) The County encourages all Developers, prior to the submission of an MHRC infrastructure development plan to the County, to consult with the Kinney County GCD to determine the: (i) active regulations of said district which apply to the proposed MHRC development; and (ii) requirements for approval of any proposed plan related development project issues in order to comply with said district's then active regulations.
- (D) **Signature and Completeness.** The MHRC application and proposed plan shall be: (1) signed, dated, approved, and acknowledged by the Owner/Developer (and not the agent thereof); and (2) signed, dated, approved, and stamped by the Owner's/Developer's engineer and surveyor. The MHRC application and plan are considered complete when all applicable documents or other information required by the Regulations is received by the County.
- (E) **Submission.** The original and 2 copies of the MHRC application and proposed plan (both being fully executed, complete, and in compliance with the Regulations), with payment for all required fees, if any, and with written evidence (in the form of a tax certificate or other tax entity issued document) showing that an ad valorem tax liability does not exist on the land made the subject of the MHRC development project, shall be submitted by the Developer to the County Judge at the notice address described in § 1.3 of the Regulations.
- (F) **County Review.** The County (through its designee, with said designee being determined on an annual basis by a recorded vote of the Commissioners Court at a public meeting) shall review the plan and thereafter shall approve or reject the plan in writing pursuant to the procedures described in § 232.007 of the Texas Government Code. The County may deny the MHRC and its proposed plan if: (1) the plan does not comply with these Regulations; (2) the required fees, if any, are not paid; or (3) a delinquent ad valorem tax liability exists for the land made the subject of the MHRC. If the plan is approved, all infrastructure and development of the MHRC must be constructed in compliance with the plan. If the plan is rejected, the written rejection shall specify the reasons for the rejection. If the plan is approved, the County designee shall so certify on the plan, and shall acknowledge the plan. The plan shall be filed and recorded by the Developer with the District-County Clerk, with a certified copy of said recorded plan being provided to the County Judge on or before 3-days from the date of filing.
- (G) **Construction and Occupancy.** Construction of the MHRC may not begin (and the MHRC may not be occupied by tenants or lessees) before the date the plan is approved by the County and filed/recorded with the District-County Clerk. The County may require inspection of the infrastructure during or on completion of construction. If the inspector determines that the infrastructure complies with the plan, the County shall issue the MHRC Certificate of Compliance in accordance with § 232.007 of the Texas Local Government Code.

- (H) **Utility Service.** A utility may not provide utility services (including water, sewer, gas, and electric services) to an MHRC subject to an approved infrastructure development plan, or to a manufactured home in the MHRC, unless the owner provides the utility with a copy of the MHRC Certificate of Compliance issued by the County. As used in this paragraph, “utility” means: (1) a municipality that provides utility services; (2) a municipality owned or municipally operated utility that provides utility services; (3) a public utility that provides utility services; (4) a nonprofit water supply or sewer corporation organized and operating under Chapter 67 of the Texas Water Code, that provides utility services; (5) a county that provides utility services; (6) a special district or authority created by state law that provides utility services; or (7) other utility described in the Regulations.
- (I) **MHRC Variance.** The Commissioners Court may grant a variance from these MHRC requirements pursuant to the variance provisions described in the Regulations.

§ 4.2 Fee Schedule. A reasonable fee schedule is adopted and approved for subdivision and MHRC development as described in **Appendix/Exhibit D**.

The preliminary application fees must be paid to the County before the County conducts a review or inspection of the proposed development project; however, the reimbursement fees for the County’s incurred or to be incurred third-party review and/or inspection costs shall be paid by the Owner/Developer to the County, as determined by the sole discretion and best business judgment of the County:

- (1) on the date of the filing of a subdivision plat or MHRC infrastructure development plan with the County for approval, or
- (2) after that date of filing but prior to final approval of said plat or plan.

ARTICLE 5 – ENFORCEMENT AND INSPECTION

§ 5.1 Enforcement.

- (A) **All Enforcement Authority Adopted.** All applicable civil enforcement remedies and penalties, criminal enforcement remedies and penalties, and litigation recovery rights (whether legal, equitable, or mixed) authorized by these Regulations, or by Texas or federal law, are hereby adopted, approved and shall be implemented for a violation or threatened violation of these Regulations, including without limitation the enforcement provisions described in the following authority: Chapters 232, 233, and 235 of the Texas Local Government Code; Chapter 12 of the Texas Property Code; Chapter 16 of the Texas Water Code; 31 TAC §§ 364.1-364.72; the County’s active floodplain management regulations; the County’s active sewer, septic, or OSSF regulations; and all other enforcement authority described in these Regulations.
- (B) **Action to Prevent or Remedy a Violation of the Regulations.** Nothing in these Regulations shall prevent the County from taking necessary or desired action to prevent or

remedy a violation or threatened violation of these Regulations as allowed by law.

§ 5.2 Inspection. The County’s officers, employees, agents, or consultants, as determined by the Commissioners Court, are authorized to: inspect proposed or active development projects to determine compliance with these Regulations; and make recommendations to the Commissioners Court regarding violations or threatened violations of the Regulations or other applicable authority pertaining to land development in the unincorporated area of Kinney County, Texas.

[End of Regulations]


CERTIFICATE OF ADOPTION

APPROVED BY: **The Commissioners Court of Kinney County, Texas**

ADOPTED: **August 26, 2024**

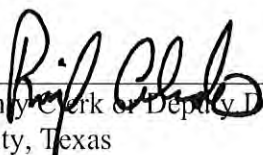
I, John Paul Schuster, the undersigned, being the County Judge of Kinney County, Texas and the Presiding Officer of the Commissioners Court of Kinney County, Texas (“Commissioners Court”), do hereby certify that the above and foregoing instrument (with attached Appendix) is the Subdivision and Manufactured Home Rental Community Regulations for Kinney County, Texas (“Regulations”), which instrument was duly considered, approved, and adopted by the Commissioners Court at a public meeting duly convened and conducted on this date. Copies of the Regulations may be obtained from the official minutes of the Commissioners Court filed with and maintained by the District-County Clerk of Kinney County, Texas, or reviewed and downloaded from the internet website of said county at www.co.kinney.tx.us.

EXECUTED on the 26th day of August, 2024.



Hon. John Paul Schuster, County Judge
Kinney County, Texas

ATTEST:



District-County Clerk or Deputy District-County Clerk
Kinney County, Texas

APPENDIX:

**SUBDIVISION AND MANUFACTURED HOME RENTAL COMMUNITY
REGULATIONS FOR KINNEY COUNTY, TEXAS**

EXHIBIT A:

SUBDIVISION PLAT APPLICATION

EXHIBIT A

KINNEY COUNTY, TEXAS -- SUBDIVISION PLAT APPLICATION FORM

PROPOSED SUBDIVISION NAME: _____

COMMISSIONER PRECINCT: _____

SCHOOL DISTRICT(S) IDENTIFIED: _____

LOCATION: _____

TOTAL LOTS, PARTS, OR DIVISIONS: _____

TOTAL LOTS 5 ACRES OR LESS: _____

TOTAL LOTS MORE THAN FIVE ACRES
BUT NOT MORE THAN 10 ACRES _____

TOTAL LOTS MORE THAN 10 ACRES: _____

NAME OF CONTIGUOUS PUBLIC ROAD(S) FOR ACCESS: _____

WATER AND SEWER SERVICE PROVIDERS: _____

ELECTRIC SERVICE PROVIDER: _____

GAS SERVICE PROVIDER: _____

OWNER/DEVELOPER: _____

Address: _____

Telephone: _____

E-mail: _____

APPLICANT: _____

Address: _____

Telephone: _____

E-mail: _____

ENGINEER: _____

Address: _____

Telephone: _____

E-mail: _____

SURVEYOR: _____

Address: _____

Telephone: _____

E-mail: _____

(1) Regarding a proposed subdivision plat, the following documents are required to be submitted to Kinney County ("County") for review with this Plat Application ("Application"): all documents required for subdivision plats by the active Subdivision and Manufactured Home Rental Community Regulations for Kinney County, Texas ("Regulations"), the contents of which are incorporated by reference, said documents being described in the attached **Document List for Subdivision Plat Application**. Please attach all required documents to this Application and add additional sheets, if necessary.

(2) You must timely submit this Application and all required documents to the following public office as described in the Regulations: County Judge, Kinney County, Texas, at the address and phone number described in § 1.3 of the Regulations.

(3) Is any part of the proposed development within the limits or extraterritorial jurisdiction of a municipality? ANSWER: ___ YES ___ NO. If YES, identify the municipality and/or ETJ area on the attached documents.

(4) Will the Developer seek a variance of any kind from the Commissioners Court? ANSWER: ___ YES ___ NO. If YES, identify and describe all issues to support the variance requested pursuant to the Regulations, and attach all supporting documents.

(5) Will any land, improvements, roads, streets, utility or transportation infrastructure, easements, or facilities be dedicated to public use? ANSWER: ___ YES ___ NO. If YES, identify them and attach all reports, plans, drawings, and specifications related to the dedicated improvements, infrastructure, or facilities.

(6) Will the subdivision be served by a public: water (including groundwater or surface water) system or facilities; sewer system or facilities; or other wastewater system or facilities? ANSWER: ___ YES ___ NO. If YES, identify the public service suppliers and attach all reports, plans, drawings, and specifications related to those improvements, infrastructure, or facilities.

(7) Will the subdivision be served by private: water (including groundwater or surface water)

system or facilities (including private water wells); or wastewater (including private septic or OSSF) facilities? ANSWER: ____ YES ____ NO. If YES, identify them and attach all reports, plans, drawings, and specifications related to those improvements, infrastructure, or facilities.

(8) Will the subdivision completion require a permit or other approval issued by another government or private entity? ANSWER: ____ YES; ____ NO. If YES, identify all such entities and attach copies of any active permits obtained from those entities for the proposed development: _____.

(9) Is the proposed development located in a floodplain, as defined by the Regulations? ANSWER: ____ YES; ____ NO. If YES, identify all floodplain areas in which all or a part of the proposed development is located: _____.

(10) Have you paid all permit fees required by the County or other government or private entity for the proposed development? ANSWER: ____ YES; ____ NO. If NO, please explain: _____.

(11) Does a delinquent tax liability or tax lien exist on the real property made the subject of the proposed development? ANSWER: ____ YES; ____ NO. If YES, please identify those matters and attach documents from the appropriate governmental taxing entity describing the tax delinquency or lien: _____.

If NO, attach tax certificates or other sufficient documents from the appropriate governmental taxing entities showing that no tax delinquency exists on the real property made the subject of the proposed development.

THE OWNER/DEVELOPER AND/OR APPLICANT NAMED BELOW HEREBY CERTIFIES AND STATES THE FOLLOWING:

I have read the active Subdivision and Manufactured Home Rental Community Regulations for Kinney County, Texas. All documents required by the Regulations have been prepared by me or on my behalf and are attached to this Application, including full payment to the County, by cashier's check or money order, for all fees required by the Regulations at this time.

Owner/Developer
Printed Name: _____
Title _____
Date: _____

Applicant
Printed Name: _____

Title _____

Date: _____

RECEIPT BY COUNTY:

RECEIVED BY:

Printed Name: _____

Title: _____

Kinney County, Texas

Date: _____

DOCUMENT LIST FOR SUBDIVISION PLAT APPLICATION

The following documents shall be submitted with the Subdivision Plat Application Form, as required by the Regulations:

1. **Regarding a subdivision of land subject to regulation pursuant to the Border County Rules, as described in §§ 3.2-3.21 of the Regulations, the following documents are required:**
 - (a) _____ a complete and executed Plat Application in compliance with the Regulations, with all required documents and payment of fees required at this time;
 - (b) _____ a proposed subdivision plat which is fully executed, certified, and acknowledged by the proper parties designated in the Regulations (including all plat certifications and notes required by §§ 3.2-3.21 of the Regulations) -- but excluding from compliance at Plat Application submission the following matters: (i) the signatures, acknowledgements, and/or certifications of the County Judge, County Clerk, and County consulting engineer, and (ii) the filing or recordation of the plat;
 - (c) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with all plat requirements, certifications, notes, and standards described in §§ 3.2-3.21 of the Regulations;
 - (d) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the requirements of §§ 3.2-3.21 of the Regulations regarding the water (including groundwater or surface water), sewer, septic, wastewater, OSSF, greywater, and sludge facilities or service (public or private) proposed for the subdivision, including: (i) the water availability and wastewater facility requirements of the Regulations; (ii) the results of all required suitability analysis, surface and subsurface testing, test well results and reports, or other analysis (including quantitative and

qualitative analysis) required by the Regulations to be performed by any person or entity (including an engineer, geoscientist, or surveyor) to demonstrate compliance with minimum state standards regarding said facilities or service; (iii) the acquisition of permits or agreements for said facilities required between the Developer and a private entity, or between the Developer and a governmental entity or agency other than the County; and (iv) stamped and sealed engineering reports and supporting documents regarding said facilities, including the availability, methodology, and cost estimates of providing said facilities to the subdivision;

- (e) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with §§ 3.2-3.21 of the Regulations regarding the: (i) minimum set-back distances required for the subdivision; (ii) required restriction of only one single family detached dwelling to be located on each lot; and (iii) detailed planning materials regarding proposals required for submittal of multi-family residential development to determine proper water and wastewater utility type and design;
- (f) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with §§ 3.2-3.21 of the Regulations regarding the required plat formatting and other information therein stated;
- (g) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with §§ 3.2-3.21 of the Regulations regarding the bond or other financial security requirements for certain proposed improvements in the subdivision;
- (h) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with §§ 3.2-3.21 of the Regulations and including evidence that the Subdivider has complied with the: (i) water availability requirements of the Regulations (including groundwater or surface water); (ii) requirements of the Regulations regarding water, sewer and/or OSSF facilities, roads, adequate drainage, electric utility service, and gas utility service); (iii) requirements that the water quality and connections to the lots meet, or will meet, the minimum state standards; (iv) requirements regarding sufficient sewer connections to the lots or septic tanks that meet, or will meet, the minimum requirements of state standards; (v) requirements that electrical connections provided to the lots meet, or will meet, the minimum state standards; and (vi) gas connections, if available, provided to the lots meet, or will meet, the minimum state standards;
- (i) _____ a proposed subdivision plat and all supporting documents describing

and demonstrating compliance with the utility connection requirements and plat certification requirements of §§ 3.2-3.21 of the Regulations;

- (j) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the purchase contract disclosure obligation of the Developer described in §§ 3.2-3.21 of the Regulations regarding water availability and implementation;
- (k) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the express limitations (and related, mandatory plat certification requirements) stated in the Regulations regarding the County's construction and maintenance obligations, if any, regarding any land, road, easement, improvement, facility, or other property (i) dedicated to public use on the plat, or (ii) private property described on the plat;
- (l) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the minimum standards described in §§ 3.2-3.21 of the Regulations, including: (i) compliance with federal and state law requirements, including minimum state standards regarding water, sewer, septic, OSSF and related facilities; (ii) compliance with specific property description, identifying data, and proper signature requirements; (iii) compliance with specific survey data requirements; (iv) compliance with specific lot and block dimension requirements; (v) compliance with specific water and OSSF disclosure requirements; (vi) compliance regarding a reasonable drainage plan for the subdivision, including the management of storm water runoff pursuant to the standards described in the Regulations; (vii) compliance with specific topographical description requirements, (viii) compliance with specific road/driveway, lot frontage, and floodplain management requirements; (ix) compliance with specific fire suppression system requirements; and (x) compliance with the development standards and requirements;
- (m) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the Model Subdivision Rules (see Item 2 below) should the subdivision qualify for regulation pursuant to those rules;
- (n) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with floodplain land requirements of § 3.5 of the Regulations;
- (o) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the plat requirements

(including plat submission, content, acknowledgement, certification, and digital map requirements) of § 3.4 of the Regulations;

- (p) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the following sections of the Regulations: (i) § 3.4 (plat submission, content, acknowledgement, and digital map); (ii) § 3.5 (floodplain land); (iii) § 3.6 (subdivision requirements); (iv) § 3.8 (water and sewer service extension, if requested); (v) § 3.8 (bond or other financial security requirements); (vi) § 3.9 (certification compliance, including water and wastewater matters facilities and service); (vii) § 3.10 (utility connections); (viii) § 3.11 (requirements prior to sale or lease); (ix) § 3.12 (services provided by the subdivider); (x) § 3.13 (advertising requirements); and (xi) § 3.21 (additional requirements, including the requirements of each additional section of the Regulations therein described);
- (q) _____ all supporting documents describing and demonstrating compliance with the variance request provisions of the Regulations (see Item 4 above);
- (r) _____ a tax certificate or other sufficient documentation from the appropriate governmental taxing entities showing that no tax delinquency exists on the real property made the subject of the proposed subdivision development;
- (s) _____ all supporting documents describing and demonstrating compliance with § 3.21 (additional requirements) of the Regulations regarding Owner/Developer compliance with §§ 3.26-3.29, 4.2, and 5.1-5.2 of the Regulations, where said additional requirements are not in conflict with or superseded by the Border County Rules; and
- (t) _____ documents showing payment of all required fees to the County as required by the Regulations at this time.

2. Regarding a subdivision of land subject to regulation pursuant to the Model Subdivision Rules, as described in § 3.22 of the Regulations, the following documents are required:

- (a) _____ a complete and executed Plat Application in compliance with the Regulations, with all required documents and payment of fees;
- (b) a proposed subdivision plat which is fully executed, certified, and acknowledged by the proper parties designated in the Regulations (including all plat certifications and notes required by § 3.22 of the Regulations) -- but excluding from compliance at Plat Application

- submission of the following matters: (i) the signatures, acknowledgements, and/or certifications of the County Judge, County Clerk, and County consulting engineer, and (ii) the filing or recordation of the plat;
- (c) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with all plat requirements, standards, certifications, and notes described in § 3.22 of the Regulations;
- (d) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the requirements of § 3.22 of the Regulations regarding the water (including groundwater or surface water), sewer, septic, wastewater, OSSF, greywater, and sludge facilities or service (public or private) proposed for the subdivision, including: (i) the water availability and wastewater facility requirements of the Regulations; (ii) the results of all required suitability analysis, surface and subsurface testing, test well results and reports, or other analysis (including quantitative and qualitative analysis) required by the Regulations to be performed by any person or entity (including an engineer, geoscientist, or surveyor) to demonstrate compliance with minimum state standards regarding said facilities or service; (iii) the acquisition of permits or agreements for said facilities required between the Developer and a private entity, or between the Developer and a governmental entity or agency other than the County; and (iv) stamped and sealed engineering reports and supporting documents regarding said facilities, including the availability, methodology, and cost estimates of providing said facilities to the subdivision;
- (e) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with § 3.22 of the Regulations regarding the: (i) minimum set-back distances required for the subdivision; (ii) required restriction of only one single family detached dwelling to be located on each lot; (iii) detailed planning materials regarding proposals required for submittal of multi-family residential development to determine proper water and wastewater utility type and design; and (iv) the specific plat requirements described in said § 3.22 regarding subsections, (G) (minimum standards/scope of standards), (H) (water facilities development), (I) (wastewater disposal), (J) greywater system requirements, (K) sludge disposal, (L) (setbacks), (M) (number of dwellings per lot), (N) (plat application), (O) (final engineering report), (P) (financial guarantees for improvements), (Q) (time extension for providing facilities, if requested), and (S) (requirements for subdivisions occurring before September 1, 1989) thereof;
- (f) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with § 3.22 of the Regulations regarding the

required plat formatting and other information therein stated;

- (g) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with § 3.22 of the Regulations regarding the bond or other financial security requirements for certain proposed improvements in the subdivision;
- (u) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with § 3.22 of the Regulations, and including evidence that the Subdivider has complied with the: (i) water availability requirements of the Regulations (including groundwater or surface water); (ii) requirements of the Regulations regarding water, sewer and/or OSSF facilities, roads, adequate drainage, electric utility service, and gas utility service); (iii) requirements that the water quality and connections to the lots meet, or will meet, the minimum state standards; (iv) requirements regarding sufficient sewer connections to the lots or septic tanks that meet, or will meet, the minimum requirements of state standards; (iv) requirements that electrical connections provided to the lots meet, or will meet, the minimum state standards; and (v) gas connections, if available, provided to the lots meet, or will meet, the minimum state standards;
- (v) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the utility connection requirements and plat certification and note requirements of § 3.22 of the Regulations;
- (w) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the purchase contract disclosure obligations of the Developer in § 3.22 of the Regulations regarding water availability and implementation;
- (x) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the express limitations (and related, mandatory plat certification and note requirements) stated in the Regulations regarding the County's construction and maintenance obligations, if any, regarding any land, road, easement, improvement, facility, or other property (i) dedicated to public use on the plat, or (ii) private property described on the plat;
- (y) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the minimum standards described in the Model Rules, including: (i) compliance with federal and state law requirements, including minimum state standards regarding water, sewer, septic, OSSF and related facilities; (ii) compliance with specific property description, identifying data, and proper signature requirements; (iii)

compliance with specific survey data requirements; (iv) compliance with specific lot and block dimension requirements; (v) compliance with specific water and OSSF disclosure requirements; (vi) compliance regarding a reasonable drainage plan for the subdivision, including the management of storm water runoff pursuant to the standards described in the Regulations; (vii) compliance with specific topographical description requirements, (viii) compliance with specific road/driveway, lot frontage, and floodplain management requirements; (ix) compliance with specific fire suppression system requirements; and (x) compliance with the development standards and requirements described in the Regulations;

- (z) _____ all supporting documents describing and demonstrating compliance with the variance request provisions of this instrument (see Item 4 above);
- (aa) _____ a tax certificate or other sufficient documentation from the appropriate governmental taxing entities showing that no tax delinquency exists on the real property made the subject of the proposed subdivision development;
- (bb) _____ all supporting documents describing and demonstrating Owner/Developer compliance with § 3.22 (Model Rules) of the Regulations, including but not limited to subpart (G)(15) thereof, which mandates compliance with: (i) the standards of Division 2 (including methodology) and the requirements of Division 3 (including methodology) of Subchapter B of 31 TAC Chapter 364; (ii) the other matters described for plat sufficiency and approval in the Model Rules (including the 31 TAC § 364.53 requirements); and (iii) pursuant to §§ 232.002-232.0029, 232.0031-232.0033, 232.101-.107 and 232.109 of the Texas Local Government Code, 31 TAC § 364.53, and other authority, §§ 3.26-3.29, 4.2, and 5.1-5.2 of these Regulations, where not in conflict with or superseded by the Model Rules; and
- (cc) _____ documents showing payment of all required fees to the County as required by the Regulations at this time.

3. Regarding a subdivision of land subject to regulation pursuant to the County Standard Rules, as described in §§ 3.23-3.29 of the Regulations, the following documents are required:

- (a) _____ a complete and executed Plat Application in compliance with the Regulations, with all required documents and payment of fees;
- (b) _____ a proposed subdivision plat which is fully executed, certified, and acknowledged by the proper parties designated in § 3.26 of the Regulations

-- but excluding from compliance at Plat Application submission the following matters: (i) the signatures, acknowledgements, and/or certifications of the County Judge, County Clerk, and County consulting engineer, and (ii) the filing or recordation of the plat;

- (c) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with § 3.26 of the Regulations regarding required plat formatting and other information, including without limitation: (i) property description, identifying data, and signatures; (ii) survey data; metes and bounds descriptions; lot, block, and other part dimensions; water (including groundwater and surface water) disclosures and certifications; (iii) sewer, and OSSF facility and service disclosures and certifications; (iv) drainage plan; topographical descriptions with contour lines; (v) road, driveway, lot, frontage, and floodplain descriptions; (vi) fire suppression system descriptions; (vii) utility connection requirements; (viii) purchase contract disclosure; (ix) compliance with the water availability requirements of the Regulations; (x) building and set-back lines; (xi) lien subordination; (xii) restrictions in certain subdivisions regarding the use of firearms, bows, and arrows; (xiii) limitations regarding County construction and maintenance obligations; (xiv) developer participation requirements; (xv) access by emergency vehicles; (xvi) future transportation corridor issues; (xvii) the additional plat certification issues specifically described in § 3.26(Y) of the Regulations; and (xviii) plat formatting, execution, and certification;
- (d) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the utility connection and plat certification requirements of § 3.26 of the Regulations;
- (e) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the purchase contract disclosure obligations of the Developer in § 3.26 of the Regulations regarding water availability and implementation;
- (f) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with § 3.26 of the Regulations regarding the express limitations (and related, mandatory plat certification requirements) stated in the Regulations regarding the County's construction and maintenance obligations, if any, regarding any land, road, easement, improvement, facility, or other property (i) dedicated to public use on the plat, or (ii) private property described on the plat;
- (g) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the minimum standards described in §

3.26 of the Regulations, including: (i) compliance with federal and state law requirements, including minimum state standards regarding water (including groundwater and surface water), sewer, septic, OSSF and related facilities; (ii) compliance with specific property description, identifying data, and proper signature requirements; (iii) compliance with specific survey data requirements; (iv) compliance with specific lot and block dimension requirements; (v) compliance with the water availability requirements and wastewater requirements of the Regulations; (vi) compliance regarding a reasonable drainage plan for the subdivision, including the management of storm water runoff, pursuant to the standards described in the Regulations; (vii) compliance with specific topographical description requirements; (viii) compliance with specific road/driveway, lot frontage, and floodplain management requirements; (ix) compliance with specific fire suppression system requirements; and (x) compliance with the development standards and requirements described in the Regulations;

- (h) _____ a proposed subdivision plat and all supporting documents describing and demonstrating compliance with the (i) road/driveway, (ii) floodplain, (iii) lot frontage, (iv) developer road damage and repair obligations, and (v) bond or other financial security requirements described in § 3.26(J) and Appendix/Exhibit G of the Regulations;
- (i) _____ all supporting documents describing and demonstrating compliance with the variance request provisions of this instrument (see Item 4 above);
- (j) _____ a tax certificate or other sufficient documentation from the appropriate governmental taxing entities showing that no tax delinquency exists on the real property made the subject of the proposed subdivision development; and
- (k) _____ documents showing payment of all required fees to the County as required by the Regulations at this time.

EXHIBIT B:
MHRC APPLICATION

EXHIBIT B

**KINNEY COUNTY, TEXAS -- MANUFACTURED HOME
RENTAL COMMUNITY ("MHRC") APPLICATION FORM**

PROPOSED MHRC NAME: _____

COMMISSIONER PRECINCT: _____

TRACT SIZE AND LOCATION: _____

TOTAL LOTS, PARTS, OR SPACES: _____

SCHOOL DISTRICT(S): _____

NAME OF PUBLIC ACCESS ROADS(S): _____

WATER AND SEWER SERVICE PROVIDERS: _____

ELECTRIC SERVICE PROVIDER: _____

GAS SERVICE PROVIDER: _____

OWNER/DEVELOPER: _____

Address: _____

Telephone: _____

E-mail: _____

APPLICANT: _____

Address: _____

Telephone: _____

E-mail: _____

ENGINEER: _____

Address: _____

Telephone: _____

E-mail: _____

SURVEYOR: _____

Address: _____

Telephone: _____

E-mail: _____

(1) Regarding a proposed MHRC, the following documents are required to be submitted to Kinney County ("County") for review with this MHRC application ("Application"): all documents required for the MHRC development as described by the active Subdivision and Manufactured Home Rental Community Regulations for Kinney County, Texas ("Regulations"), the contents of which are incorporated by reference), including without limitation a proposed **MHRC Infrastructure Development Plan** ("Plan") pursuant to § 4.1 of the Regulations and § 232.007 of the Texas Local Government Code, said documents being described in the attached **Document List for MHRC Application**. Please attach all required documents to this Application and add additional sheets, if necessary.

(2) You must timely submit this Application and all required documents to the following public office as described in the Regulations: County Judge, Kinney County, Texas, at the business office address and telephone number described in § 1.3 of the Regulations.

(3) Is any part of the proposed development within the limits or extraterritorial jurisdiction of a municipality? ANSWER: ___ YES ___ NO. If YES, identify the municipality on the attached documents.

(4) Will the Developer seek a variance of any type from the Commissioners Court? ANSWER: ___ YES ___ NO. If YES, identify and describe all issues to support the variance requested pursuant to the Regulations, and attach all supporting documents to this Application.

(5) Will any land, improvements, roads, streets, utility or transportation infrastructure, easements, or facilities be dedicated to public use? ANSWER: ___ YES ___ NO. If YES, identify them and attach all reports, plans, drawings, and specifications related to those dedicated improvements, infrastructure, or facilities.

(6) Will the MHRC be served by a public water or public sewer system or facilities? ANSWER: ___ YES ___ NO. If YES, identify the public service suppliers and attach all reports, plans, drawings, and specifications related to those improvements, infrastructure, or facilities.

(7) Will the MHRC be served by a private water well(s) or private septic/OSSF system(s) or facilities? ANSWER: ___ YES ___ NO. If YES, identify them and attach all reports, plans, drawings, and specifications related to those improvements, infrastructure, or facilities.

(8) Will the MHRC require a permit or other approval by another government or private entity? ANSWER: ___ YES; ___ NO. If YES, identify all such entities and attach copies of any

active permits obtained from those entities for the proposed development:

_____.

(9) Is the proposed development located in a floodplain, as defined by the Regulations? ANSWER: ___ YES; ___ NO. If YES, identify all floodplain areas in which all or a part of the proposed development is located: _____

_____.

(10) Have you paid all permit fees required by the County or other government or private entity for the proposed development? ANSWER: ___ YES; ___ NO. If NO, please explain why you have not done so: _____.

(11) Does a delinquent tax liability or tax lien exist on the real property made the subject of the proposed development? ANSWER: ___ YES; ___ NO. If YES, please identify those matters and attach documents from the appropriate governmental taxing entity describing the tax delinquency or lien: _____.

_____. If NO, attach tax certificates or other sufficient documents from the appropriate governmental taxing entities showing that no tax delinquency exists on the real property made the subject of the proposed development.

THE OWNER/DEVELOPER AND/OR APPLICANT NAMED BELOW HEREBY CERTIFIES AND STATES THE FOLLOWING:

I have read the active Subdivision and Manufactured Home Rental Community Regulations for Kinney County, Texas. All documents required by the Regulations for the proposed MHRC have been prepared by me or on my behalf and are attached to this Application, including full payment to the County, by cashier's check or money order, for all fees required at this time.

Owner/Developer
Printed Name: _____
Title _____
Date: _____

Applicant
Printed Name: _____
Title _____
Date: _____

RECEIPT BY COUNTY:**RECEIVED BY:**

Printed Name: _____
 Title: _____
 Kinney County, Texas
 Date: _____

DOCUMENT LIST FOR MHRC APPLICATION

The following documents shall be submitted with the MHRC Application Form, as required by the Regulations:

- (a) _____ a complete and executed MHRC Application in compliance with the Regulations, with all required documents and payment of fees;
- (b) _____ a proposed MHRC Infrastructure Development Plan (or "Plan") as described by § 4.1 of the Regulations and § 232.007 of the Texas Local Government Code, which is fully executed, certified, and acknowledged by the proper parties (including the Developer and its engineer and surveyor) designated in the Regulations -- but excluding from compliance at MHRC Application submission the following matters: (i) the signatures, acknowledgements, and/or certifications of the County's representatives, and (ii) the filing or recordation of the Plan;
- (c) _____ a proposed Plan and all supporting documents describing and demonstrating compliance with the survey, road, drainage, water, and wastewater (sewer, septic, or OSSF) requirements of § 4.1 of Regulations and § 232.007 of the Texas Local Government Code, including without limitation providing accurate descriptions and specifications regarding: (i) adequate drainage for the MHRC, including all streets or roads therein, in accordance with standard engineering practices and the requirements imposed for subdivisions in the Regulations (see **Appendix/Exhibit C**); (ii) necessary drainage culverts and other drainage facilities for the MHRC; (iii) areas of the MHRC located in the floodplain; (iv) the provision of an adequate public or community water supply to the MHRC in accordance with the water availability requirements of § 3.26(M) of the Regulations and minimum state standards; (v) the location of all facilities and supply lines for said water supply in accordance with minimum state standards, including Subchapter C, Chapter 341 of the Texas Health and Safety Code; and (vi) the provision of access of the MHRC to sanitary sewer or septic facilities and lines, in accordance with minimum state standards and including (1) providing and identifying the location of all sanitary sewer facilities and lines, and (2) providing and identifying adequate OSSF

sewage facilities and lines in accordance with Chapter 366 of the Texas Health and Safety Code;

- (d) _____ a proposed Plan and all supporting documents describing and demonstrating compliance with all land survey requirements of the Regulations, including: (1) an accurate description of the proposed MHRC boundaries, and any significant features located therein; (ii) the proposed location of all spaces, lots, or other parts of the MHRC; (iii) the proposed or existing utility, road, and drainage easements; and (iv) the dedications of easements and rights-of-way, if any;
- (e) _____ a proposed Plan and all supporting documents describing and demonstrating compliance with the road requirements of the Regulations, including without limitation providing accurate descriptions and specifications regarding: (i) all roads to be located in the MHRC, with said roads to be constructed in compliance with the road and street standards and requirements described in these Regulations for subdivisions; and (ii) all ingress/egress roads for the proposed MHRC for use as emergency vehicle access to the MHRC;
- (f) _____ a proposed Plan and all supporting documents describing and demonstrating compliance with all applicable requirements of: (i) the Regulations; (ii) state and federal law; (iii) the County's active floodplain management, sewer, drainage, septic, or OSSF regulations;
- (g) _____ a proposed Plan and all supporting documents describing and demonstrating the Developer's knowledge of, and expressed intent to comply with, the specific restrictions described in the Regulations regarding the prohibited construction and/or occupancy of the MHRC prior to issuance by the County of the MHRC, and the prohibited provision of utility services to the MHRC subject to an infrastructure development plan, or to a manufactured home in the MHRC -- unless the owner/developer provides the utility with a copy of the MHRC Certificate of Compliance issued by the County;
- (h) _____ a tax certificate or other sufficient documentation from the appropriate governmental taxing entities showing that no tax delinquency exists on the real property made the subject of the proposed MHRC development; and
- (i) _____ documents showing payment of all required fees to the County, as required by the Regulations, if any, at this time.

EXHIBIT C:
DRAINAGE STANDARDS

EXHIBIT C

DRAINAGE STANDARDS

These drainage standards shall apply for subdivisions and manufactured home rental communities ("MHRC") located in the unincorporated area of Kinney County, Texas:

- (1) General Purpose – In the interests of public safety, these standards are designed to:
 - (a) provide adequate drainage for each lot, space, or other divided part (including streets or roads) of the proposed development area in compliance with standard engineering practice;
 - (b) provide adequate drainage to the proposed development area to efficiently manage the flow of storm water or other runoff or flooding (including flooding or runoff associated with a 100-year flood) in compliance with standard engineering practice;
 - (c) provide adequate plats, plans, design and planning procedures, water, sewer, septic, and OSSF facilities, and related drainage for the proposed development area in accordance with standard engineering practice; and
 - (d) coordinate adequate drainage in the proposed development area with the general storm drainage pattern for the area in accordance with standard engineering practice.

- (2) Drainage Study – The following requirements shall apply:
 - (a) All lots, spaces, or other divided parts shall comply with the minimum requirements of: (i) the County's on-site sewage facilities order, or other applicable County sewer, septic, or OSSF regulations; and (ii) the minimum requirements of state law regarding sewer, septic, or OSSF systems.
 - (b) A drainage study shall be made of the proposed development area to insure proper drainage and, if necessary, additional right of way shall be obtained for drainage easement(s) as determined to be necessary or desired. The drainage study (including calculations and related drawings) shall be submitted in the application accompanying submission of the plat or plan for the proposed development. The study shall include all necessary requirements to adequately handle all drainage water entering into and being

generated as a result of the proposed development.

- (c) The exact dimensions and type of the permanent drainage system for the development area, including culverts, bridges, pipes, drainage boxes, low water crossings, and other drainage facilities and infrastructure shall be established for each development project in accordance with these Regulations.
 - (d) A proper and adequate system of drainage shall be constructed to effectively dispose of surface and storm water (including that associated with a 100-year flood) regarding the area of the proposed development. The drainage system shall include the drainage of all lots, spaces, or other parts of the development area offered to the public for sale, lease, use, or occupancy, the roads and streets of said area, and all other divided parts of said area.
 - (e) Drainage from the proposed development area shall be extended to the natural drains in the area having the capacity to efficiently manage the flow of storm water runoff.
 - (f) Drainage material, equipment, facilities, and infrastructure shall be constructed of a permanent type, either concrete or steel and concrete, or as otherwise described in these Regulations or approved by the County. All drainage facilities, equipment, and infrastructure shall be designed and constructed in accordance with recognized engineering standards and practices.
- (3) Drainage Design – All drainage design shall be based on the following criteria unless otherwise approved by the County:
- (a) General: All storm drainage calculations shall be based on the Manning's Equation for Flow, as follows:
 - Q = A times (1.486 divided by n) times R to the 2/3 power times S to the ½ power
 - Q = Discharge in cubic feet per second
 - A = Cross sectional area of the drainage way in square feet
 - n = Roughness coefficient
 - R = Hydraulic radius in feet
 - S = Hydraulic slope
 - (b) Roughness Coefficients:
 - Reinforced concrete pipe (to be approved by County - n

=.012

Corrugated metal pipe (to be approved by County)

- Asphalt Coated - - n =.024
- Asphalt paved inert - n =.020
- Fully asphalt lined - n =.012

Smooth interior plastic pipe - n =.012

Reinforced concrete boxes - - n =.012

Concrete lined open channel -- n =.012

Unlined open channels

- Bottom width < 25 ft. - n -.040
- Bottom width > 25 ft. - n -.035

(c) Design Criteria for Unlined Open Channels:

Minimum Velocity	2 feet per second
Maximum Velocity	4 feet per second'
Minimum Free Board	1 foot
Minimum Side Slope	3 foot horizontal to 1 foot vertical or as otherwise designated by County
Bottom Width	as required
Minimum Easement Width	30 feet or as otherwise approved by County
Minimum Slope	0.10 percent

(d) Design Criteria for Lined Channels:

Minimum Velocity	2 feet per second
Maximum Velocity	10 feet per second
Minimum Free Board	1 foot
Minimum Side Slopes	2 foot horizontal to 2 foot vertical
Bottom Width	As required
Minimum Easement Width	30 feet or as otherwise approved by County

(e) Driveways and Culverts: All driveway culverts placed for access to a lot or other divided part, or space shall be sized to carry a minimum of 125% of the Design Requirement including entrance and exit losses. Minimum culvert size shall be 18". All driveways shall be designed to not obstruct the normal flow of water.

(f) Determination of Run-Off: Run-Off from the development area will be determined by the "Rational Method," from the equation below

and a C-factor based on total development of the proposed subdivision. Intensity for Runoff calculations for minor drainways within the development area will be based on a 5, 25, and 100-year storms for all major drainways within the development area.

Q= CIA
 Q = Cubic feet, per second
 I = Intensity in inches per hour
 A = Area in acreage
 C = Run-off coefficient

- (g) **Outfalls from Ditches:** Outfalls from ditches into natural or constructed drainage ways shall enter at or above the grade of drainage channel. If necessary, drop or other types of outfall structures shall be installed to prevent erosion. These structures shall be placed so as to not interfere with maintenance of the channel.
- (h) **Water Conveyance:** Lots, spaces, and other divided parts shall be graded so that surface or storm water drainage will be conveyed to streets or drainage courses as directly as possible. Drainage water from roads and streets shall be conveyed to a defined drainage course as directly as possible.
- (i) **Grade Requirements:** The maximum grade of all streets and roads shall be 5.0% unless otherwise approved by the County. The minimum grade of streets and roads shall be 0.2% unless otherwise approved by the County.
- (j) **Drainage Ditches:** All streets and road without curbs and gutters shall have drainage ditches adjacent to and running parallel to the adjacent streets and roads. The drainage ditches shall have a minimum depth of 12 inches below the level of the edge of the adjacent street or road.
- (k) **Permanent Drainage Structures:** Permanent drainage structures, including but not limited to culverts, pipes, drainage boxes, and/or bridges shall be installed at all crossings of drainage courses, including drainage ditches intersecting with driveways, roads, and streets.
- (l) **Permanent Obstacles for Erosion Prevention:** Permanent obstacles (such as concrete, rip-rap, or rock retards) shall be installed on the sloping sides of drainage ditches and drainage courses to prevent

erosion.

- (m) Open Drainage Ditch/Channel Design: Open drainage channels and ditches shall be designed and constructed with a proper cross-slope grade and an alignment which will facilitate proper functioning without destructive velocities of drainage waters. All drainage easements must be of an adequate width to permit drainage and flood control for all land upon which natural drainage runs through the property being considered for development.
 - (n) Plat or Plan Description: The location, dimension, description, and flow line of all existing and proposed drainage features or structures, and the location, flow line, and floodplain of existing water courses located in the proposed development area, must be shown on all plats and plans submitted to the County for review.
 - (o) Floodplain Requirements: Should the proposed development area contain land designated as a floodplain: (i) the plat or plan must clearly describe and depict all floodplain, flood zone, and floodway locations; and (ii) any structure to be constructed in the floodplain must have a finished floor elevation established that is a minimum of 1 foot above the base flood elevation, and otherwise comply with the NFIP, state law, and the County's active flood damage prevention order or other floodplain management regulations.
- (4) Water/Sewer/OSSF Facilities –
- (a) Public Facilities/Service -- Should public or organized water, sewer, septic, and/or OSSF service and facilities be proposed for the subdivision, or be intended to be constructed or installed by the Developer to service the subdivision, the plat must contain documents by the Developer and his engineer describing and depicting: (a) the type and location of the proposed facilities (and any roadways and easements dedicated for the provision of service) that will be constructed or installed to service the subdivision, and including suitability reports, calculations, and percolation test results; (b) a statement specifying the date by which said facilities will be fully operable; and (c) documents and a statement confirming that the plat, said facilities, and the subdivision comply with the applicable requirements of the (i) minimum state standards for the proposed facilities and service, (ii) County's water (including groundwater and surface water), drainage, sewer, septic, and/or OSSF regulations, (iii) County's groundwater and surface water sufficiency disclosure requirements and floodplain management

regulations, and (iv) the regulations and management plans of the appropriate Water District with territorial jurisdiction regarding the water wells and related permits for the land of the development project.

- (b) Private Facilities -- Should private water (including groundwater and surface water), septic, and/or OSSF facilities be proposed for the subdivision, with said facilities not to be constructed or installed by the Developer, the plat must contain documents (including suitability reports, calculations, and percolation test results) by the Developer and his engineer describing and depicting the: (a) type and location of the proposed facilities; and (b) documents and a statement confirming that the plat, said facilities, and the subdivision comply with the applicable requirements of the (i) minimum state standards for the proposed facilities, (ii) County's water (including groundwater and surface water), drainage, sewer, septic, and/or OSSF regulations, (iii) County's groundwater and surface water sufficiency disclosure requirements and floodplain management regulations, and (iv) the regulations and management plans of the appropriate Water District with territorial jurisdiction regarding the water wells and related permits for the land of the development project.

EXHIBIT D:
FEE SCHEDULE

EXHIBIT D**FEE SCHEDULE**

The following fee schedule is approved and adopted by Kinney County, Texas ("County"), regarding subdivision and manufactured home rental community ("MHRC") development located in the unincorporated area of said county:

- (1) Requirements.
 - (a) Subdivision plat application fees shall be paid to the County at the time of application submission to the office of the County Judge described in § 1.3 of the Regulations – with the exception of the full reimbursement to be paid by the Owner/Developer to the County for County-incurred engineering or technical consultant fees, which shall be paid as reimbursement to the County by the Owner/Developer as described in subparagraph (c) below.
 - (b) Filing and recording fees for an approved subdivision plat or MHRC Infrastructure Development Plan ("MHRC Plan") shall be paid to the Kinney County District-County Clerk by the Owner/Developer upon plat or plan filing and recordation at the office of said District-County Clerk, at the Kinney County Courthouse, 501 South Ann Street, Brackettville, Texas 78832 (telephone 830-563-2521);
 - (c) The County does not employ an engineer or technical consultant as a County employee. Should the County incur engineering or other technical consultant fee expenses associated with the review of a proposed subdivision plat or inspection of a subdivision by an engineer, engineering firm, or other technical consultant engaged by the County to assist the County regarding those matters, and prior to a final decision by the County regarding the plat or subdivision, the following is authorized to occur: (i) the preliminary plat application fees (i.e., non-reimbursement fees) must be paid to the County before the County conducts a review of the proposed development project; however, (ii) the aforesaid reimbursement fees for the County's incurred or to be incurred third-party engineering or other technical consultant review and/or inspection costs shall be paid by the Owner/Developer to the County as reimbursement or preliminary reimbursement (1) on the date of the filing of a subdivision plat with the County for approval, or (2) after that date of filing -- but prior to final approval, if any, of said plat or subdivision -- as determined by the sole discretion and best business judgment of the County regarding said reimbursement fees.

- (d) All fee and reimbursement payment amounts described in this instrument shall be paid in full by a cashier's check or money order made payable to the order of Kinney County, Texas.
- (2) Amounts. The following fee amounts are approved and adopted:
- (a) Regarding a subdivision plat (including the original or amended instrument, or a replat), the following is required: a base fee of \$3,000.00 + a \$100.00 per lot, space, or divided part fee + full reimbursement payment to the County for all County-incurred engineering or other technical consultant fee expenses (as described above) + all filing and recording fees charged by the Kinney District-County Clerk.
 - (b) Regarding an MHRC Plan (including the original or amended instrument), the following is required: the filing and recording fees charged by the District-County Clerk.
 - (c) Regarding a Certificate of Approved Plat, the following is required: a fee of \$50.00 for each requested certificate.
 - (d) Regarding a variance request relating to a proposed subdivision plat or subdivision development, a total review fee of \$250.00 is required for all requested variances – meaning that the grand total of the variance fee is \$250.00 whether one or more variances are requested.
 - (e) Regarding a Certificate of MHRC Compliance, the following is required: fee of \$50.00 for each requested certificate.
 - (f) Regarding the active filing and recording fees charged by the Kinney County District-County Clerk for an approved subdivision plat or MHRC Plan, please contact the District-County Clerk at the address and telephone number described in this instrument.

EXHIBIT E:

DEVELOPER ROAD DAMAGE AND REPAIR PROVISIONS

EXHIBIT E

DEVELOPER ROAD DAMAGE AND REPAIR PROVISIONS

(1) **Definitions.** The special definitions of the above and foregoing Subdivision and Manufactured Home Rental Community Regulations of Kinney County, Texas are incorporated by reference, and for purposes of this **Exhibit E**, “Developer” shall include the employees, agents, assigns, successors, contractors, and subcontractors of the Developer.

(2) **Road System.** The County’s public road and bridge system (“Road System”) is located in Kinney County, Texas and is owned, operated, and maintained by the County. The Road System includes the County’s: roads, easements, and rights of way; bridges and abutments; driveways, fencing, and gates; bar-ditches, culverts, and drainage areas; traffic signals, delineators, road signs, and other traffic control devices; and all other land, infrastructure, facilities, equipment, and personal property owned or used by the County for its public road and bridge system.

(3) **Developer Obligations.** The road damage and repair obligations of the Developer described in these provisions shall begin on the date of the subdivision plat or MHRC infrastructure development plan approval, if any, and said obligations shall be effective and enforceable for the periods of project construction, operations, and maintenance, and for as long as the development project (as described in said plat or plan) exists in Kinney County, Texas. Should a violation of these road damage and repair obligations be committed by the Developer, the County may pursue and recover all remedies authorized by law or equity. Upon said plat or plan approval, the County and Developer shall endeavor to approve and execute a separate road damage and repair agreement regarding the development project which includes the provisions stated in this **Exhibit E**; however, such agreement shall not be a condition to plat or plan approval.

(4) **Road System Use and Repair.**

- (a) **Authorized Road System Use.** The Developer is authorized to use the following parts of the County’s Road System for its development project operations: all County roads and bridges in said system.
- (b) **Required Licenses and Permits.** While using the Road System for those stated operations, the Developer shall obtain and maintain in full force and effect all licenses and permits required by federal or state law for the operation of its vehicles, equipment, and accompanying weight loads.
- (c) **Developer Repair Obligations.** The Developer shall repair at its sole expense (using all required labor, materials, and equipment) any part of the County’s Road System which is: (i) located outside the boundary of the subdivision or MHRC development area; and (ii) damaged by a Developer-caused damage event during project construction, operations, or

maintenance. The repair of said damage shall be completed by the Developer: (i) on or before 90-days from the occurrence of a Developer-caused damage event, unless a reasonable time extension is requested by the Developer and granted by the written consent of the County, which consent shall not be unreasonably withheld; and (ii) pursuant to the following standard of repair -- specifically, a repair to the Road System which restores the system to the same or better condition as existed before the damage event, normal wear being excepted. Upon the cessation of development project construction, operations, or maintenance, and/or the removal of project facilities and equipment from the development area, the Developer shall leave the Road System in the same or better condition as existed before the Developer-caused damage event, normal wear being excepted.

- (d) Traffic Disruption. The Developer shall: (i) use commercially reasonable efforts to minimize the disruption to the Road System caused by project construction, operations, or maintenance; and (ii) during project construction, operations, or maintenance that may adversely affect the Road System, take commercially reasonable action to reasonably notify the Kinney County Judge and any affected Kinney County Commissioner of the proposed disruption to the Road System.
- (e) Traffic Signal Replacement. The Developer shall replace any road signs, delineators, or other traffic signals or devices of the County's Road System damaged by the Developer during project construction, operations, or maintenance.
- (f) County Inspection Rights. The County shall have the right to: (i) inspect all repair work conducted on the Road System by the Developer to confirm compliance with these provisions, however, County inspections shall not unreasonably interfere with the Developer's repair work being conducted on the Road System; and (ii) inspect and obtain (at the County's sole expense) copies of the Developer's non-confidential business records regarding the repair work to ensure Developer compliance with these provisions.
- (g) Notice of Repair Completion. On or before 10-days of the completion of the aforesaid Developer repairs to the Road System, the Developer shall provide the County with a signed letter from the Developer's engineer (which shall include the engineer's professional stamp authorized by the State of Texas) certifying that the resulting repairs and any related improvements were constructed: (i) in compliance with these provisions; and (ii) within the public road or bridge right of way or easement.

- (h) Insurance. Regarding all repair work conducted by the Developer on the Road System pursuant to these provision, the Developer shall maintain the following insurance coverage, and shall provide insurance coverage certificates to the Kinney County Judge confirming such coverage on or before seven 7-days prior to commencement of any repair activities conducted on the Road System, and also confirming such coverage within 24-hours of any change in the required coverage: (i) liability coverage (naming the County as an additional insured) regarding death, personal injury, and/or property damage resulting from the repair activities on the Road System, in the minimum amount of \$1,500,000.00 per occurrence; (ii) applicable workers' compensation coverage regarding the employees of the Developer (or its contractors or subcontractors) conducting repair activities on the Road System, in the minimum amounts required by state law (including self-insurance, if any, authorized by Texas law); and (iii) motor vehicle coverage regarding all vehicles used by the Developer during said repair activities, in the minimum amounts required by Texas law.

EXHIBIT F:

UTILITY CONNECTION REQUIREMENTS

EXHIBIT F**UTILITY CONNECTION REQUIREMENTS¹**

The utility connection requirements authorized by §§ 232.029, 232.101 and 232.106-.107 of the Texas Local Government Code, are adopted and approved for application and use in these Regulations, as hereafter described:

- (a) Prohibition of Service/Water or Sewer Service -- Except as provided by subparagraph (c) of this exhibit, or § 232.037(c) of the Texas Local Government Code, a utility may not serve or connect any subdivided land with water or sewer service unless the utility receives a certificate issued by the Commissioners Court under § 232.028(a) of the Texas Local Government Code, or receives a determination from the Commissioners Court under § 232.028(b)(1) of the Texas Local Government Code, that the plat has been reviewed and approved by the Commissioners Court.
- (b) Prohibition of Service/Electricity or Gas Service -- Except as provided by subparagraphs (c) or (k) of this exhibit, or § 232.037(c) of the Texas Local Government Code, a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the Commissioners Court under §§ 232.028(b)(2) and (3) of the Texas Local Government Code that adequate water and sewer services (including septic or OSSF facilities) have been installed to service the lot or subdivision.
- (c) Certificate Facts -- An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service -- regardless of whether the utility receives a certificate issued by the Commissioners Court under § 232.028(a), or regardless of whether the utility receives a determination from the Commissioners Court under § 232.028(b) -- if the utility is provided with a certificate issued by the Commissioners Court that states that:
 - (1) the subdivided land: (a) was sold or conveyed by a subdivider by any means of conveyance, including a contract for deed or executory contract (i) before September 1, 1995, or (ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the ETJ of a municipality as determined by Chapter 42 of the Texas Local Government Code; (b) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under the immediately preceding subpart (a); (c) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 2003; and (d) has had adequate sewer services installed to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366 of the Texas Health and Safety Code;

¹ The current, enacted, and enrolled version of each statute described in this exhibit is incorporated by reference for all purposes.

- (2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366 of the Texas Health and Safety Code; or
 - (3) the land was not subdivided after September 1, 1995, and (a) water service is available within 750 feet of the subdivided land, or (b) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.
- (d) Supporting Documents -- A utility may provide utility service to subdivided land described by subparagraph (c)(1), (2), or (3) only if the person requesting service: (1) is not the land's Subdivider or the Subdivider's agent; and (2) provides to the utility a certificate described in subparagraph (c) above.
- (e) Documentation -- A person requesting service may obtain a certificate under subparagraph (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the Commissioners Court documentation containing:
- (1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a Subdivider before September 1, 1995, or before September 1, 1999, as applicable under said subparagraph (c) above;
 - (2) a notarized affidavit by that person requesting service under subparagraph (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by subparagraph (c)(1)(c) above;
 - (3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, or September 1, 1999, as applicable under subparagraph (c) above; and
 - (4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by § 232.021(14) of the Texas Local Government Code or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366 of the Texas Health and Safety Code.

- (f) [This subparagraph is intentionally left blank]
- (g) Document Disclosure -- On request, the Commissioners Court shall provide to the Texas Attorney General and any appropriate local, county, or state law enforcement official, a copy of any document on which the Commissioners Court relied in determining the legality of providing services.
- (h) Limited Effect -- These utility connection requirements may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a Subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.
- (i) Exception/Municipal ETJ -- The prohibition established by these utility connection requirements shall not prohibit a water, sewer, electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot sold, conveyed, or purchased through a contract for deed or executor contract or other device by a Subdivider prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the ETJ of a municipality that has adequate sewer services installed that are fully operable to service the lot, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366 of the Texas Health and Safety Code, and was subdivided by a plat approved prior to September 1, 1989.
- (j) In these utility connection requirements, “foundation” means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, which is partly or wholly below the surface of the ground and on which the residential structure rests.
- (k) Exception/Previous Service – Subject to subparagraphs (l) and (m), a utility that does not hold a certificate issued by, or has not received a determination from, the Commissioners Court under § 232.028 to serve or connect subdivided property with electricity or gas may provide that service to a single-family residential dwelling on that property if:
 - (1) the person requesting the utility service: (a) is the owner and occupant of the residential dwelling; and (b) on or before January 1, 2001, owned and occupied the residential dwelling;
 - (2) the utility previously provided the utility service on or before January 1, 2001, to the property for the person requesting the service;
 - (3) the utility service provided as described in subparagraph (2) above was terminated not earlier than 5-years before the date on which the person requesting utility service submits an application for that service; and
 - (4) providing the utility service will not result in: (a) an increase in the volume of utility service provided to the property; or (b) more than

- one utility connection for each single-family residential dwelling located on the property.
- (l) Required Documentation -- A utility may provide service under subparagraph (k) only if the person requesting the service provides to the Commissioners Court documentation that evidences compliance with the requirements of subparagraph (k) and that is satisfactory to the Commissioners Court.
 - (m) Limitation for Service -- A utility may not serve or connect subdivided property described by subparagraph (k) if, on or after September 1, 2007, any existing improvements on that property are modified.
 - (n) Exception/Government Funding Program -- Except as provided in subparagraph (o), this subparagraph (n) does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:
 - (1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in the County;
 - (2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;
 - (3) when connected will comply with the minimum state standards for both water and sewer facilities as prescribed by the model subdivision rules adopted under § 16.343 of the Texas Water Code.
 - (4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791 of the Texas Government Code, if applicable.
 - (o) Exception – A utility may not serve any subdivided land with water utility connection or service under subparagraph (n) unless the entity receives a determination from the County Commissioners Court under § 232.028(b)(3) of the Texas Local Government Code that adequate sewer services have been installed to service the lot or dwelling.
 - (p) Fees -- The Commissioners Court hereby imposes the following reasonable fee for a certificate issued under these utility connection requirements for a subdivision which is located in the county and not within the limits of a municipality: as described on the fee schedule attached to these Regulations.
 - (q) Plat Disclosure Statement -- An approved subdivision plat shall contain the following statement regarding these utility connection requirements:

KINNEY COUNTY ("COUNTY"), BY AND THROUGH ITS GOVERNING BODY, THE COMMISSIONERS COURT OF KINNEY COUNTY, TEXAS ("COMMISSIONERS COURT"), HAS ADOPTED CERTAIN UTILITY CONNECTION REQUIREMENTS AUTHORIZED BY LAW, AND NOTICE IS HEREBY GIVEN REGARDING THOSE MATTERS:

WATER OR SEWER SERVICE -- UNLESS OTHERWISE ALLOWED BY LAW OR COUNTY REGULATIONS, A UTILITY MAY NOT SERVE OR CONNECT ANY SUBDIVIDED LAND WITH WATER OR SEWER SERVICE UNLESS THE UTILITY RECEIVES A CERTIFICATE ISSUED BY THE COMMISSIONERS COURT, OR RECEIVES A DETERMINATION FROM THE COMMISSIONERS COURT, THAT THE SUBDIVISION PLAT HAS BEEN REVIEWED AND APPROVED BY THE COUNTY.

ELECTRICITY OR GAS SERVICE -- UNLESS OTHERWISE ALLOWED BY LAW OR COUNTY REGULATIONS, A UTILITY MAY NOT SERVE OR CONNECT ANY SUBDIVIDED LAND WITH ELECTRICITY OR GAS SERVICE UNLESS THE UTILITY RECEIVES A DETERMINATION FROM THE COMMISSIONERS COURT THAT ADEQUATE WATER AND SEWER SERVICES (OR OSSF SERVICES AS AN ALTERNATIVE TO SEWER SERVICES) HAVE BEEN CONSTRUCTED OR INSTALLED TO SERVICE THE LOT OR SUBDIVISION, AND THAT: (1) SAID WATER SERVICE FACILITIES ARE FULLY OPERABLE AND THE WATER QUALITY AND CONNECTIONS TO THE LOTS MEET THE MINIMUM STATE STANDARDS; (2) SAID SEWER SERVICE FACILITIES ARE FULLY OPERABLE AND THE SEWER CONNECTIONS TO THE LOTS MEET THE MINIMUM REQUIREMENTS OF STATE STANDARDS; AND/OR (3) ALTERNATIVELY, IF SEPTIC SYSTEMS (OSSF) ARE USED, THAT THE LOT IS SERVED BY A PERMITTED OSSF, OR THAT LOTS IN THE SUBDIVISION CAN BE ADEQUATELY AND LEGALLY SERVED BY SEPTIC SYSTEMS, THAT MEET THE MINIMUM REQUIREMENTS OF STATE STANDARDS.

EXHIBIT G:

BOND OR OTHER FINANCIAL SECURITY REQUIREMENTS

EXHIBIT G**BOND OR OTHER FINANCIAL SECURITY REQUIREMENTS**

1. General Requirements

- (a) Bond or Financial Security Required. Notwithstanding anything to the contrary stated in these Regulations -- and prior to plat approval during the plat review process -- should the Commissioners Court determine (as an exception to the County's general non-acceptance policy) that a road, street, bridge, culvert, driveway, or area of common use which is described and dedicated to the public on the plat (hereafter described as "the aforesaid dedicated facility or infrastructure") as an exception may be considered by the Commissioners Court at a later date for acceptance into the County's public road, bridge, or drainage system of operation and maintenance, then, and in that event: (i) the Developer must execute prior to plat approval a good and sufficient bond for the construction and maintenance of the aforesaid dedicated facility or infrastructure unless another financial security or guarantee is authorized by these Regulations; and (ii) the bond or other financial security or guarantee must be approved by the Commissioners Court to predicate plat approval.
- (b) Approval. The bond or financial guarantee (or security) must be submitted to and approved by the Commissioners Court in a form and amount required by these Regulations, and that amount must be adequate to ensure proper construction of the aforesaid dedicated facility or infrastructure for the subdivision but must not exceed the estimated cost of construction. The bond or guarantee (or security) shall apply to and be in a form and amount sufficient to ensure, the proper construction of the aforesaid dedicated facility or infrastructure for the subdivision.
- (c) Construction/Maintenance Limitations for Public Dedication. Upon plat approval, the County expressly does not accept for County construction, operation, repair, or maintenance purposes the aforesaid dedicated facility or infrastructure described on the plat. Upon plat approval, the construction or maintenance of the aforesaid dedicated facility and infrastructure described on the plat shall remain the responsibility of the Developer (in accordance with these Regulations and the approved bond or other security or guarantee) until said facility or infrastructure are accepted, if ever, by the Commissioners Court by a subsequent, separate acceptance order being enacted and approved by the Commissioners Court.

2. Bond Requirements

- (a) Bond Payee or Beneficiary Description. The bond shall be payable to the County Judge (in his official capacity) or his successor in office, fully executed by the Developer and his surety, and approved by the Commissioners Court prior to plat approval.

- (b) **Bond Surety Requirements.** The bond surety shall be a corporate or other business entity surety, as may be approved by the Commissioners Court. The County's criteria for surety acceptability includes the following: (i) the surety must be registered with the Texas Secretary of State and be authorized to do business in Texas; (ii) the surety must have authority to issue bonds in the amount required by the Commissioners Court; and (iii) the surety must have a rating of at least B from Best's Key Rating Guide -- or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety must demonstrate eligibility to participate in the surety bond guarantee or security program of the Small Business Administration of the United States government and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.
- (c) **Bond Amount.** The bond must be in an amount determined by the Commissioners Court to be adequate to ensure proper construction of the aforesaid dedicated facility or infrastructure requirements for the subdivision but must not to exceed the estimated cost of construction.
- (d) **Bond Condition.** The bond shall be conditioned that the aforesaid dedicated facility and infrastructure for the subdivision (which shall be specifically named and described in the bond) shall be: (i) constructed and maintained by the Developer in accordance with all specifications, requirements, and standards described in these Regulations; and (ii) constructed within a reasonable time set by the Commissioners Court, but not less than one year from the date of plat approval.
- (e) **Bond Term.** The bond shall be for a term of years not less than three years from the date of plat approval.

3. Other Financial Guarantee (or Security) Requirements

- (a) **Guarantee Types.** In lieu of a bond, the Developer may deposit another good and sufficient financial guarantee or security approved by the Commissioners Court in the form of: (i) a monetary deposit (in good funds approved by the County); (ii) an irrevocable letter of credit ("LOC") issued by a federally insured financial institution; or (iii) another form of good and sufficient financial guarantee or security deemed acceptable by the Commissioners Court pursuant to the standards and terms herein required for a surety bond or LOC.
- (b) **Guarantee Conditions.** The financial guarantee or security (whether a monetary deposit, LOC, or other type authorized by these Regulations) shall be:
 - (i) payable to the County Judge (in his official capacity) or his successor in office, fully executed by the Developer and his guarantor, and approved by the Commissioners Court prior to plat approval;

- (ii) be in an amount determined by the Commissioners Court to be adequate to ensure proper construction of the aforesaid dedicated facility or infrastructure requirements for the subdivision, but must not to exceed the estimated cost of construction;
 - (iii) conditioned that the aforesaid dedicated facility and infrastructure for the subdivision (which shall be specifically named and described in the guarantee or security) shall be: (1) constructed and maintained by the Developer in accordance with all specifications, requirements, and standards described in these Regulations; (2) constructed within a reasonable time set by the Commissioners Court, but not less than one year from the date of plat approval; and
 - (iv) be for a term of years not less than three years from the date of plat approval.
- (c) Letter of Credit. If an LOC is used for the guarantee or security, it must conform to the following requirements:
- (i) Beneficiary. The LOC must list as the sole beneficiary the County Judge or his successor in office.
 - (ii) Developer and Financial Institution Execution. The LOC must be fully executed by the Developer and the financial institution, in compliance with these Regulations, and approved by the Commissioners Court prior to approval of the plat.
 - (iii) Requirements. The LOC shall meet the following requirements.
 - (1) Financial Institution Qualifications. Any LOC submitted as a financial guarantee or security for combined amounts greater than \$10,000 and less than \$250,000 must be from financial institutions which meet the following qualifications:
 - (a) Banks must be: federally insured, with a Sheshunoff rating of 10 or better; with primary capital of at least 6.0% of total assets; and with total assets of at least \$25 million.
 - (b) Savings and loan associations must be: federally insured; with tangible capital of at least 1.5% of total assets; with total assets greater than \$25 million, or tangible capital of at least 3.0% of total assets if total assets are less than \$25 million; and with a

Sheshunoff rating of 30 or better.

- (c) Other financial institutions must have the following: the LOC must be 110% collateralized by an investment instrument meeting the qualifications for a county investment; and the investment instrument must be registered in the County's name, and the County must receive safekeeping receipts for all collateral before the LOC is accepted.
 - (d) Any LOC submitted as a financial guarantee or security for combined amounts greater than \$250,000 must be from financial institutions which meet the following qualifications:
 - (e) Banks must be: federally insured; with a Sheshunoff rating of 30 or better; with a primary capital of at least 7.0% of total assets, and total assets of at least \$75 million.
 - (f) Savings and loan associations must be: federally insured; with tangible capital of at least 3.0% of total assets, and total assets greater than \$75 million (or alternatively, tangible capital of at least 5.0% of total assets if total assets are less than \$75 million); and with a Sheshunoff rating of 30 or better.
 - (g) Other financial institutions must have the following: the LOC must be 110% collateralized by an investment instrument meeting the qualifications for a county investment; and the investment instrument must be registered in the County's name and the County must receive safekeeping receipts for all collateral before the LOC is accepted.
- (2) Sole Beneficiary and Approval. The LOC shall list as sole beneficiary the County Judge (in his official capacity), or his successor in office, and must be approved by the Commissioners Court. The form of the LOC shall be modeled after the form attached in Appendix 2B of 31 TAC § 364.54.

- (3) Amount and Conditions. The LOC must be in an amount determined by the Commissioners Court to be adequate to ensure proper construction of the roads, streets, and drainage structure requirements for the subdivision, but in an amount not to exceed the estimated cost of construction. The LOC must be conditioned that the roads, streets, and drainage structure requirements for the subdivision (which shall be specifically named and described in the LOC) shall be: (a) constructed and maintained by the Developer in accordance with all specifications, requirements, and standards described in these Regulations; and (b) constructed within a reasonable time set by the Commissioners Court, but not less than two years from the date of plat approval.

EXHIBIT H:

BORDER COUNTY RULES – SPECIAL DEFINITIONS

EXHIBIT HBORDER COUNTY RULES – SPECIAL DEFINITIONS¹

Notwithstanding anything to the contrary stated in these Regulations, the following special definitions shall apply regarding the **Border County Rules** described in these Regulations, whether the term or phrase appears in capital letters or in bolded, italicized, or underlined print:

- (1) “Board” means the Texas Water Development Board.
- (2) “Common promotional plan” means any plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is: (a) contiguous or part of the same area of land; or (b) known, designated, or advertised as a common unit or by a common name.
- (3) “Executive administrator” means the executive administrator of the Texas Water Development Board.
- (4) “Floodplain” means any area in the 100-year floodplain that is susceptible to being inundated by water from any source or that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).
- (5) “Lease” includes an offer to lease.
- (6) “Lot” means a parcel into which land that is intended for residential use is divided. “Lot of Record” means a: (a) lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or (b) lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989.
- (7) “Minimum state standards” means the minimum standards set out for: (a) adequate drinking water by or under Section 16.343(b)(1), Texas Water Code; (b) adequate sewer facilities by or under Section 16.343(c)(1), Texas Water Code; or (c) the treatment, disposal, and management of solid waste by or under Chapters 361 and 364, Texas Health and Safety Code.

¹ The current, enacted, and enrolled version of each statute described in this exhibit is incorporated by reference for all purposes.

- (8) "Plat" means a map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments.
- (9) "Sell" includes an offer to sell.
- (10) "Sewer," "sewer services," or "sewer facilities" means treatment works as defined by Section 17.001, Water Code, or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.
- (11) "Subdivide" means to divide the surface area of land into lots intended primarily for residential use.
- (12) "Subdivider" means an individual, firm, corporation, or other legal entity that directly or indirectly subdivides land into lots for sale or lease as part of a common promotional plan in the ordinary course of business.
- (13) "Subdivision" means an area of land that has been subdivided into lots for sale or lease.
- (14) "Utility" means a person, including a legal entity or political subdivision, that provides the services of: (a) an electric utility, as defined by Section 31.002, Texas Utilities Code; (b) a gas utility, as defined by Section 101.003, Texas Utilities Code; and (c) a water and sewer utility, as defined by Section 13.002, Texas Water Code.

EXHIBIT I:

PLAT AMENDMENT, REVISION, AND CANCELLATION

EXHIBIT I**PLAT AMENDMENT, REVISION, AND CANCELLATION¹****Border County Rules****1. Cancellation of Subdivision (§ 232.039, Texas Local Government Code).**

- (a) A subdivider of land may apply to the Commissioners Court to cancel all or part of the subdivision in the manner provided by Section 232.008, Texas Local Government Code (described below) after notice and hearing as provided by this section.
- (b) A resident of a subdivision for which the subdivider has applied for cancellation under Subsection (a) has the same rights as a purchaser of land under Section 232.008, Texas Local Government Code.
- (c) The notice required by Section 232.008(c) must also be published in Spanish in the newspaper of highest circulation and in a Spanish-language newspaper in the county if available.
- (d) Not later than the 14th day before the date of the hearing, the county chief appraiser shall by regular and certified mail provide notice containing the information described by Section 232.008(c) to: (1) each person who pays property taxes in the subdivision, as determined by the most recent tax roll; and (2) each person with an interest in the property.
- (e) The Court may require a subdivider to provide the court with the name and last known address of each person with an interest in the property. For purposes of this subsection, a person residing on a lot purchased through an executory contract has an interest in the property.
- (f) A person who fails to provide information requested under above Subsection (e) before the 31st day after the date the request is made is liable to the state for a penalty of \$500 for each week the person fails to provide the information.
- (g) The Court may cancel a subdivision only after a public hearing. At the hearing, the Court shall permit any interested person to be heard. At the conclusion of the hearing, the Court shall adopt an order on whether to cancel the subdivision.

2. Replatting (§ 232.040, Texas Local Government Code).

- (a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or by the forces of nature,

¹ The current, enacted, and enrolled version of each statute described in this exhibit is incorporated by reference for all purposes.

including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041, Texas Local Government Code.

- (b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this Subchapter B of Chapter 232, Texas Local Government Code, unless the lot is platted or replatted as required by said Subchapter. A subdivider or agent of a subdivider may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of said Subchapter B. The prohibition in this subsection includes the sale of a lot: (1) by a subdivider who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.064, Texas Property Code; or (2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of said Subchapter B.
- (c) Subsection (b) does not apply if a seller other than a subdivider or agent of a subdivider resides on the lot.
- (d) The attorney general or a district or county attorney with jurisdiction may bring a proceeding under Subsection (b).
- (e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Sections 232.029 or 232.0291, Texas Local Government Code.

3. Revision of Plat (§ 232.041, Texas Local Government Code).

- (a) A person who has subdivided land that is subject to the subdivision controls of the county in which the land is located may apply in writing to the Commissioners Court of the county for permission to revise the subdivision plat filed for record with the county clerk.
- (b) Except as provided by Subsection (b-1), after the application is filed with the Court, the Court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the Court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. If all or part of the subdivided tract has been sold to non-developer owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.
- (b-1) If the Court determines that the revision to the subdivision plat does not affect a

public interest or public property of any type, including, but not limited to, a park, school, or road, the notice requirements under Subsection (b) do not apply to the application and the Court shall: (1) provide written notice of the application to the owners of the lots that are within 200 feet of the subdivision plat to be revised, as indicated in the most recent records of the central appraisal district of the county in which the lots are located; and (2) if the county maintains an Internet website, post notice of the application continuously on the website for at least 30 days preceding the date of the meeting to consider the application until the day after the meeting.

- (c) During a regular term of the Court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that: (1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or (2) each owner whose rights may be interfered with has agreed to the revision.
- (d) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.
- (f) A fee for filing an application for plat revision is required and described in the Appendix/Exhibit D.

4. Variances from Replatting (§ 232.042, Texas Local Government Code).

- (a) On request of a subdivider or resident purchaser, the Commissioners Court (or "Court") may grant a delay or a variance from compliance with Section 232.040 as herein provided.
- (b) The Commissioners Court may grant a delay of two years if the reason for the delay is to install utilities. A person may apply for one renewal of a delay under this subsection. To obtain an initial delay under this subsection, a subdivider must: (i) identify the affected utility providers; (ii) provide the terms and conditions on which service may be provided; and (iii) provide a certified letter from each utility provider stating that it has the right to serve the area and it will serve the area.
- (c) The Commissioners Court may grant a delay or a variance for a reason other than a reason described above if it is shown that compliance would be impractical or would be contrary to the health and safety of residents of the subdivision. The Court must issue written findings stating the reasons why compliance is impractical.
- (c) A delay or a variance granted by the Commissioners Court is valid only if the Court notifies the attorney general of the delay or variance and the reasons for the delay or variance not later than the 30th day after the date the Court grants the delay or variance.
- (d) Until approved water and sewer services are made available to the subdivision, the

subdivider of land for which a delay is granted under this provision must provide at no cost to residents: (i) 25 gallons of potable water a day for each resident and a suitable container for storing the water; and (ii) suitable temporary sanitary wastewater disposal facilities.

5. Variances from Replatting (§ 232.043, Texas Local Government Code).

- (a) On the request of a subdivider who created an unplatted subdivision or a resident purchaser of a lot in the subdivision, the Commissioners Court (or "Court") may grant: (1) a delay or variance from compliance with the subdivision requirements prescribed by Section 232.023(b)(8) or (9), 232.025(1), (2), (3), (4), or (5), or 232.030(c)(2), (3), (5), or (6) of the Texas Local Government Code; or (2) a delay or variance for an individual lot from compliance with the requirements prescribed by the model subdivision rules adopted under Section 16.343, of the Texas Water Code, for (i) the distance that a structure must be set back from roads or property lines, or (ii) the number of single-family, detached dwellings that may be located on a lot.
- (b) If the Court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the Court may grant a delay or variance under this section only if: (1) a majority of the lots in the subdivision were sold before (A) September 1, 1995, in a county defined under Section 232.022(a)(1), or (B) September 1, 2005, in a county defined under Section 232.022(a)(2); (2) a majority of the resident purchasers in the subdivision sign a petition supporting the delay or variance; (3) the person requesting the delay or variance submits to the Court (A) a description of the water and sewer service facilities that will be constructed or installed to service the subdivision, (B) a statement specifying the date by which the water and sewer service facilities will be fully operational, and (C) a statement signed by an engineer licensed in this state certifying that the plans for the water and sewer facilities meet the minimum state standards; (4) the commissioners court finds that the unplatted subdivision at the time the delay or variance is requested is developed in a manner and to an extent that compliance with specific platting requirements is impractical or contrary to the health or safety of the residents of the subdivision; and (5) the subdivider who created the unplatted subdivision has not violated local law, federal law, or state law, excluding this chapter, in subdividing the land for which the delay or variance is requested, if the subdivider is the person requesting the delay or variance.
- (c) If the Court makes a written finding that the subdivider who created the unplatted subdivision owns property in the subdivision, the Court may grant a provisional delay or variance only if the requirements of Subsection (b) are satisfied. The Court may issue a final grant of the delay or variance only if it has not received objections from the attorney general before the 91st day after the date the Court submits the record of its proceedings to the attorney general as prescribed by subsection (d).
- (d) If the Court grants a delay or variance under this provision, it shall: (1) make

findings specifying the reason compliance with each requirement is impractical or contrary to the health or safety of residents of the subdivision; (2) keep a record of its proceedings and include in the record documentation of the findings and the information submitted under subsection (b); and (3) submit a copy of the record to the attorney general.

- (e) The failure of the attorney general to comment or object to a delay or variance granted under this section does not constitute a waiver of or consent to the validity of the delay or variance granted.
 - (e) This section does not affect a civil suit filed against, a criminal prosecution of, or the validity of a penalty imposed on a subdivider for a violation of law, regardless of the date on which the violation occurred.
6. **Amending Plat (§ 232.044, Texas Local Government Code).** The Commissioners Court may approve and issue an amending plat under Subchapter B of Chapter 232 of the Texas Local Government Code in the manner, for the same purposes, and subject to the same related provisions as provided by Section 232.011 of the Texas Local Government Code, as described below.

County Standard Rules

7. **Cancellation of Subdivision (§ 232.008, Texas Local Government Code).**
- (a) This regulation applies to the unincorporated area Kinney County, Texas.
 - (b) A person owning real property in the unincorporated area of the County that has been subdivided into lots and blocks or into small subdivisions may apply to the Commissioners Court for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the Court by order shall authorize the owner of the subdivision to file an instrument canceling the subdivision in whole or in part. The instrument must describe the subdivision or the part of it that is canceled. The Court shall enter the order in its minutes. After the cancellation instrument is filed and recorded in the deed records of the County, the County Tax Assessor-Collector shall assess the property as if it had never been subdivided.
 - (c) The Court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the county for at least three weeks before the date on which action is taken on the application. The Court shall take action on an application at a regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.

- (d) If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by these provisions, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided. For the purpose of assessing the tract for a preceding year, the Kinney County Tax Assessor-Collector shall back assess the tract on an acreage basis.
- (e) On application for cancellation of a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of 75 percent of the property included in the subdivision, phase, or identifiable part, the Court by order shall authorize the cancellation in the manner and after notice and a hearing as provided by paragraphs (b) and (c). However, if the owners of at least 10 percent of the property affected by the proposed cancellation file written objections to the cancellation with the Court, the grant of an order of cancellation is at the discretion of the Court.
- (f) To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that: (i) abuts directly on the part of the roadway or easement to be canceled or closed; or (ii) is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to: (1) the nearest remaining public highway, county road, or access road to the public highway or county road; or (2) any uncanceled common amenity of the subdivision.
- (g) A person who appears before the Court to protest the cancellation of all or part of a subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the canceled subdivision or part of the subdivision. The person must bring the action within one year after the date of the entry of the Court's order granting the cancellation.
- (h) Regardless of the date land is subdivided or a plat is filed for a subdivision, the Court may deny a cancellation under these provisions if the Court determines the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development as defined by § 232.0085 of the Texas Local Government Code.

8. Cancellation of Certain Subdivision Plats if Existing Plat Obsolete (§ 232.0083, Texas Local Government Code).

- (a) The following plat cancellation standards and procedures are adopted regarding obsolete plats, and these provisions apply only to a subdivision for which: (1) a plat has been filed for 75 years or more; (2) the most recent plat describes at least a portion of the property as acreage tracts; (3) a previous plat described at least a portion of the property as lots and blocks; and (4) the Kinney County Tax Assessor-Collector lists the property in the subdivision on the tax rolls based on the

description in the previous plat and assesses taxes on the basis of that description.

- (b) A person owning real property in the subdivision may apply to the Commissioners Court for permission to cancel an existing subdivision plat in whole or part and to reestablish the property using lots and blocks descriptions that, to the extent practicable, are consistent with the previous subdivision plat.
- (c) After notice and hearing, the Commissioners Court may order the cancellation of the existing subdivision plat and the reestablishment of the property in accordance with the application submitted under paragraph (b) if the Court finds that: (i) the cancellation and reestablishment do not interfere with the established rights of: (1) any owner of a part of the subdivision; or (2) a utility company with a right to use a public easement in the subdivision; or (ii) each owner or utility whose rights may be interfered with has agreed to the cancellation and reestablishment.
- (d) The Commissioners Court shall publish notice of an application for the cancellation and reestablishment. The notice must be published at least three weeks before the date on which action is taken on the application and must direct any person who is interested in the property and who wishes to protest the proposed cancellation and reestablishment to appear at the time specified in the notice. The notice must be published in a newspaper that has general circulation in the county.
- (e) If the Commissioners Court authorizes the cancellation and reestablishment, the Court by order shall authorize the person making the application under this section to record an instrument showing the cancellation and reestablishment. The Court shall enter the order in its minutes.

9. Cancellation of Certain Subdivisions if Land Remains Undeveloped (§ 232.0085, Texas Local Government Code).

- (a) This section applies only to real property located: (i) outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42 of the Texas Local Government Code; and (ii) in Kinney County, Texas, being an affected county, as defined by Section 16.341, Texas Water Code, that has adopted the Model Subdivision Rules developed under Section 16.343, Texas Water Code, and is located along an international border.
- (b) The Commissioners Court may cancel, after notice and a hearing as required by this section, a subdivision for which the plat was filed and approved before September 1, 1989, if: (i) the development of or the making of improvements in the subdivision was not begun before the effective date of this section; and (ii) the Court by resolution has made a finding that the land in question is likely to be developed as a colonia.
- (c) The Court must publish notice of a proposal to cancel a subdivision under this section and the time and place of the required hearing in a newspaper of general

circulation in the county for at least 21 days immediately before the date a cancellation order is adopted under this section. The Kinney County Tax Assessor-Collector shall, not later than the 14th day before the date of the hearing, deposit with the United States Postal Service a similar notice addressed to each owner of land in the subdivision, as determined by the most recent county tax roll.

- (d) At the hearing, the Court shall permit any interested person to be heard. At the conclusion of the hearing, the Court shall adopt an order on whether to cancel the subdivision. The Court may adopt an order canceling a subdivision if the Court determines the cancellation is in the best interest of the public. The Court may not adopt an order canceling a subdivision if: (i) the cancellation interferes with the established rights of a person who is a non-developer owner and owns any part of the subdivision, unless the person agrees to the cancellation; or (ii) the owner of the entire subdivision is able to show that (1) the owner of the subdivision is able to comply with the minimum state standards and Model Subdivision Rules developed under Section 16.343, Texas Water Code, including any bonding requirements, or (2) the land was developed or improved within the period described by Subsection (b).
- (e) The Court shall file the cancellation order for recording in the deed records (or Official Public Records) of the County. After the cancellation order is filed and recorded, the property shall be treated as if it had never been subdivided, and the Chief Appraiser of the Kinney County Appraisal District shall assess the property accordingly. Any liens against the property shall remain against the property as it was previously subdivided.
- (f) Notwithstanding anything to the contrary stated in these Regulation, for purposes of this section: (i) "Development" means the making, installing, or constructing of buildings and improvements; and (ii) "Improvements" mean (1) water supply, treatment, and distribution facilities, (2) wastewater collection and treatment facilities, and (3) other utility facilities, and furthermore, said term does not include roadway facilities.

10. Revision of Plat (§ 232.009, Texas Local Government Code).

- (a) This provision applies to the unincorporated area of Kinney County, Texas.
- (b) A person who owns real property in a tract that has been subdivided and that is subject to the subdivision controls of the County may apply in writing to the Commissioners Court for permission to revise the subdivision plat that applies to the property and that is filed for record with the County Clerk.
- (c) Except as provided by paragraph (c-1), after the application is filed with the Commissioners Court, the Court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the Court will meet to consider the application and

to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. Except as provided by paragraph (f), if all or part of the subdivided tract has been sold to non-developer owners, the Court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

- (c-1) If the Commissioners Court determines that the revision to the subdivision plat does not affect a public interest or public property of any type, including, but not limited to, a park, school, or road, the notice requirements under paragraph (c) do not apply to the application and the Court shall: (i) provide written notice of the application to the owners of the lots that are within 200 feet of the subdivision plat to be revised, as indicated in the most recent records of the Kinney County Appraisal District; and (ii) post notice of the application continuously on the County's internet website for at least 30 days preceding the date of the meeting to consider the application until the day after the meeting.
- (d) During a regular term of the Commissioners Court, the Court shall adopt an order to permit the revision of the subdivision plat if it is shown that: (i) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or (ii) each owner whose rights may be interfered with has agreed to the revision
- (e) If the Commissioners Court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the County Clerk a revised plat or part of a plat that indicates the changes made to the original plat.
- (f) The Commissioners Court is not required to give notice by mail under paragraph (c) if the plat revision only combines existing tracts.
- (g) A fee for filing an application for plat revision is required and described in the Appendix/Exhibit D.

11. Amendment of Plat (§ 232.011, Texas Local Government Code).

- (a) The Commissioners Court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed for one or more of the following purposes: (i) to correct an error in a course or distance shown on the preceding plat; (ii) to add a course or distance that was omitted on the preceding plat; (iii) to correct an error in a real property description shown on the preceding plat; (iv) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat; (v) to correct any other type of scrivener or clerical error or omission of the previously approved plat, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or (vi) to correct an error in courses and distances of lot lines between two adjacent lots if (1) both lot owners join in the

application for amending the plat, (2) neither lot is abolished, (3) the amendment does not attempt to remove recorded covenants or restrictions, and (4) the amendment does not have a material adverse effect on the property rights of the other owners of the property that is the subject of the plat.

- (b) The amending plat controls over the preceding plat without the vacation, revision, or cancellation of the preceding plat.
 - (c) Notice, a hearing, and the approval of other lot owners are not required for the filing, recording, or approval of an amending plat.
 - (d) A fee for filing an application for plat revision is required and described in the Appendix/Exhibit D.
12. **Dormant Projects (§ 245.005(a)-(c), Texas Local Government Code).** Regarding a subdivision plat approved by the County, that approval shall expire on the 5-year anniversary of the date the plat application was filed with the County for the subdivision development project, if no progress has been made towards completion of the project. Progress towards completion of the project shall be defined as described by § 245.005(c) of the Texas Local Government Code. Nothing in this provision shall be deemed to affect the timing of an order or permit issued solely under the authority of Chapter 366 of the Texas Health and Safety Code by TCEQ or its authorized agent.
13. **Dormant Plats (§ 232.002(c), Texas Local Government Code).** If no part of the land subdivided under a plat approved pursuant to these Regulations is sold or transferred before January 1 of the 51st year after the year in which the plat was approved, the approval of the plat expires, and the Developer must resubmit a plat of the subdivision for approval. A plat resubmitted for approval under this provision is subject to the requirements prescribed by these Regulations at the time the plat is resubmitted.

EXHIBIT J:

BORDER COUNTY RULES -- VARIANCES

EXHIBIT JBORDER COUNTY RULES -- VARIANCES¹

1. **Border County Rules – Variances from Platting Requirements (§ 232.043, Texas Local Government Code).**
 - (a) On the request of a subdivider who created an unplatted subdivision or a resident purchaser of a lot in the subdivision, the Commissioners Court (or “Court”) may grant a:
 - (i) delay or variance from compliance with the subdivision requirements in Sections 232.023(b) (8) or (9) [relating to certain drainage requirements], 232.025(1), (2), (3), (4), or (5) [relating to certain road width and drainage requirements], or 232.030(c)(2), (3), (5), or (6) [relating to certain solid waste disposal, road, electric and gas service, and floodplain management requirements] of the Texas Local Government Code; or
 - (ii) delay or variance for an individual lot from compliance with the requirements prescribed by the Model Subdivision Rules adopted under Section 16.343, of the Texas Water Code, for: (1) the distance that a structure must be set back from roads or property lines; or (2) the number of single-family, detached dwellings that may be located on a lot.
 - (b) If the Court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the Court may grant a delay or variance under this section only if:
 - (i) a majority of the lots in the subdivision in Kinney County, Texas were sold before September 1, 1995;
 - (ii) a majority of the resident purchasers in the subdivision sign a petition supporting the delay or variance;
 - (iii) the person requesting the delay or variance submits to the Court: (1) a description of the water and sewer service facilities that will be constructed or installed to service the subdivision; (2) a statement specifying the date by which the water and sewer service facilities will be fully operational; and (3) a statement signed by an engineer licensed in this state certifying that the plans for the water and sewer facilities meet the minimum state standards;
 - (iv) the Court finds that the unplatted subdivision at the time the delay or variance is requested is developed in a manner and to an extent that

¹ The current, enacted, and enrolled version of each statute described in this exhibit is incorporated by reference for all purposes.

- compliance with specific platting requirements is impractical or contrary to the health or safety of the residents of the subdivision; and
- (v) the subdivider who created the unplatted subdivision has not violated local law, federal law, or state law, excluding Chapter 232 of the Texas Local Government Code, in subdividing the land for which the delay or variance is requested, if the subdivider is the person requesting the delay or variance.
- (c) If the Court makes a written finding that the subdivider who created the unplatted subdivision owns property in the subdivision, the Court may grant a provisional delay or variance only if the requirements of Subsection (b) are satisfied. The Court may issue a final grant of the delay or variance only if the Court has not received objections from the Texas Attorney General before the 91st day after the date the Court submits the record of its proceedings to the attorney general as prescribed by Subsection (d).
 - (d) If the Court grants a delay or variance under this section, the Court shall: (i) make findings specifying the reason compliance with each requirement is impractical or contrary to the health or safety of residents of the subdivision; (ii) keep a record of its proceedings and include in the record documentation of the findings and the information submitted under Subsection (b); and (iii) submit a copy of the record to the Texas Attorney General.
 - (e) The failure of the Texas Attorney General to comment or object to a delay or variance granted under this section does not constitute a waiver of or consent to the validity of the delay or variance granted.
 - (f) This section does not affect a civil suit filed against, a criminal prosecution of, or the validity of a penalty imposed on a subdivider for a violation of law, regardless of the date on which the violation occurred.

2. Border County Rules – Variances from Replatting Requirements (§ 232.042, Texas Local Government Code).

- (a) On request of a subdivider or resident purchaser, the Court may grant a delay or a variance from compliance with Section 232.040 [relating to replatting] as provided by this section.
- (b) The Court may grant a delay of two years if the reason for the delay is to install utilities. A person may apply for one renewal of a delay under this subsection. To obtain an initial delay under this subsection, a subdivider must: (i) identify the affected utility providers; (ii) provide the terms and conditions on which service may be provided; and (iii) provide a certified letter from each utility provider stating that it has the right to serve the area and it will serve the area.
- (c) The Court may grant a delay or a variance for a reason other than a reason described by Subsection (b) if it is shown that compliance would be impractical or would be

contrary to the health and safety of residents of the subdivision. The Court must issue written findings stating the reasons why compliance is impractical.

- (d) A delay or a variance granted by the Court is valid only if the Court notifies the Texas Attorney General of the delay or variance and the reasons for the delay or variance not later than the 30th day after the date the Court grants the delay or variance.
- (e) Until approved water and sewer services are made available to the subdivision, the subdivider of land for which a delay is granted under this section must provide at no cost to residents: (i) 25 gallons of potable water a day for each resident and a suitable container for storing the water; and (ii) suitable temporary sanitary wastewater disposal facilities.

EXHIBIT K:

MODEL SUBDIVISION RULES – SPECIAL DEFINITIONS

EXHIBIT K**MODEL SUBDIVISION RULES – SPECIAL DEFINITIONS¹**

Pursuant to 31 TAC § 364.18 and notwithstanding anything to the contrary stated in these Regulations, the following special definitions shall apply regarding the **Model Subdivision Rules** described in these Regulations (unless the context clearly indicates otherwise), whether the term or phrase appears in capital letters or in bolded, italicized, or underlined print:

- (1) Commission -- the Texas Commission on Environmental Quality and any of its predecessor or successor entities.
- (2) Commissioners Court (or Court) -- the Commissioners Court of Kinney County, Texas.
- (3) County -- Kinney County, Texas.
- (4) Drinking Water -- all water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.
- (5) Engineer -- a person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.
- (6) Final Plat – a map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the county records and prepared as described in these regulations.
- (7) Lot -- an undivided tract or parcel of land.
- (8) Non-Public Water System -- any water system supplying water for domestic purposes which is not a public water system.
- (9) OSSF -- on-site sewage facilities as that term is defined in rules and/or regulations adopted by the Commission, including, but not limited to, 30 TAC Chapter 285.
- (10) Platted -- recorded with the County in an official plat record.
- (11) Public Water System – a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any

¹ The current, enacted, and enrolled version of each statute described in this exhibit is incorporated by reference for all purposes.

collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

- (12) Purchaser -- shall include purchasers under executory contracts for conveyance of real property.
- (13) Retail Public Utility -- any entity meeting the definition of a retail public utility as defined in the Texas Water Code § 13.002.
- (14) Sewerage Facilities – the devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.
- (15) Subdivider -- any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.
- (16) Subdivision -- any tract of land divided into two or more parts that results in the creation of two or more lots of five acres or less intended for residential purposes. A subdivision includes re-subdivision (replat) of land which was previously divided.
- (17) TAC -- Texas Administrative Code, as compiled by the Texas Secretary of State.
- (18) Water Facilities -- any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

EXHIBIT L:

CERTIFICATION OF GROUNDWATER AVAILABILITY FORM

Certification Form: Groundwater Availability for Platting

**Title 30 Texas Administrative Code, Section 230.4 (30 TAC 230.4),
Certification of Groundwater Availability for Platting Form**

Use of this form: The municipal authority pursuant to Texas Local Government Code 212.0101, or a county authority pursuant to TLGC 232.0032, the plat applicant and the Texas licensed professional engineer or Texas licensed professional geoscientist must use this form based upon the requirements of Title 30, TAC, Chapter 230 to certify that adequate groundwater is available under the land to be subdivided (if the source of water for the subdivision is groundwater under the subdivision) for any subdivision subject to platting under Texas Local Government Code 212.004 and 232.001. The form and 30 TAC 230 do not replace state requirements applicable to public drinking water supply systems or the authority of counties or groundwater conservation districts under either Texas Water Code (TWC) 35.019 or TWC Chapter 36.

For any questions regarding this form, contact the TCEQ Water Availability Division, Groundwater Planning and Assessment Team at gpat@tceq.texas.gov or by phone at (512) 239-4600.

Certification Form: Groundwater Availability for Platting

**CERTIFICATION OF GROUNDWATER AVAILABILITY FOR
PLATTING FORM**

Administrative Information, 30 TAC 230.4

1. Name of Proposed Subdivision: _____
2. Any Previous Name that Identifies the Tract of Land

3. Property Owner's Names(s):
Address: _____
Phone: _____
Email: _____
4. Plat Applicant's Name:
Address: _____
Phone: _____
Email: _____
5. Licensed Professional Engineer or Geoscientist's Information
Name: _____
Address: _____
Phone: _____
Email: _____
Certificate / License Number: _____
6. Location and Property Description of Proposed Subdivision:

7. Tax Assessor Parcel Number(s).
Book: _____
Map: _____
Parcel: _____

Proposed Subdivision Information, 30 TAC 230.5

8. Purpose of Proposed Subdivision (single family/multi-family residential, non-residential, commercial, other): _____
If "Other," explain: _____

Certification Form: Groundwater Availability for Platting

- 9. Size of Proposed Subdivision (in acres): _____
- 10. Number of Proposed Lots: _____
- 11. Average Size of Proposed Lots (in acres): _____
- 12. Anticipated Method of Water Distribution (check YES for all that apply):

Expansion of Existing Public Water Supply System	<input type="checkbox"/> YES	<input type="checkbox"/> NO
New (Proposed) Public Water Supply System	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Individual Water Wells to Serve Individual Lots	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Combination of Methods (Describe below)	<input type="checkbox"/> YES	<input type="checkbox"/> NO

Description, if needed: _____

- 13. Additional Information, if required by the municipal or county authority: _____
- Note:** If public water supply system is anticipated, a written application for service for existing water providers with a one-half mile radius must be attached to this form (30 TAC 230.5(f)).
- Indicate "YES" if the above-mentioned application for service for existing water providers is attached, or N/A if not applicable. YES N/A

Projected Water Demand Estimate, 30 TAC 230.6

- 14. Residential Water Demand estimate at Full Build Out (includes both single family and multi-family residential): _____
 - a. Number of Proposed Housing Units (single and multi-family): _____
 - b. Average Number of Persons Per Housing Unit: _____
 - c. Volume of Water Required Per Person Per Day (gallons): _____
 - d. Water Demand Per Housing Unit Per Year (acre-feet): _____
 - e. Total Expected Residential Water Demand Per Year (acre-feet): _____
- 15. Non-Residential Water Demand Estimate at Full Build-Out (acre-feet/year): _____
 - a. Type(s) of Non-Residential Water Use(s): _____
 - _____
 - _____
 - b. Water Demand Per Type Per Year (acre-feet): _____
- 16. Total Water Demand Estimate at Full Build-Out (acre-feet/year): _____
- 17. Sources of Information Used for Demand Estimates: _____
- _____
- _____

Certification Form: Groundwater Availability for Platting

General Groundwater Resource Information, 30 TAC 230.7

18. Identify and describe, using TWDB names, the aquifer(s) that underlie(s) the proposed subdivision:

Note: Users may refer to the most recent State Water Plan to obtain general information pertaining to the state's aquifers. The State Water Plan is available on the TWDB's webpage at:

<https://www.twdb.texas.gov/waterplanning/swp/index.asp>

Obtaining Site-Specific Groundwater Data, 30 TAC 230.8

Answer by checking YES or NO for each of the following questions:

19. Have all known existing, abandoned, and inoperative wells within the proposed subdivision been located, identified, and shown on the plat as required under 30 TAC 230.8(b)? YES NO
20. Were the geologic and groundwater resource factors identified under 30 TAC 230.7(b) considered in planning and designing the aquifer test required under 30 TAC 230.8(c)? YES NO
21. Have test and observation wells been located, drilled, logged, completed, developed, and shown on the plat as required by 30 TAC 230.8(c)(1) - (4)? YES NO
22. Have all reasonable precautions been taken to ensure that contaminants do not reach the subsurface environment and that undesirable groundwater has been confined to the zone(s) of origin (30 TAC 230.8(c)(5))? YES NO
23. Has an aquifer test been conducted which meets the requirements of 30 TAC 230.8(c)(1) and (6)? YES NO
24. Were existing wells or previous aquifer test data used? YES NO
25. If yes, did they meet the requirements of 30 TAC 230.8(c)(7)? YES NO
26. Were additional observation wells or aquifer testing utilized? YES NO

Note: If expansion of an existing public water supply system or a new public water supply system is the anticipated method of water distribution for the proposed subdivision, site-specific groundwater data shall be developed under the requirements of 30 TAC, Chapter 290, Subchapter D (relating to Rules and Regulations for Public Water Systems) and the applicable information and correspondence developed in meeting those requirements shall be attached to this form pursuant to 30 TAC 230.8(a).

Certification Form: Groundwater Availability for Platting

Determination of Groundwater Quality, 30 TAC 230.9

27. Have water quality samples been collected as required by 30 TAC 230.9?
 YES NO
28. Has a water quality analysis been performed which meets the requirements of 30 TAC 230.9?
 YES NO

Determination of Groundwater Availability, 30 TAC 230.10

29. Have the aquifer parameters required by 30 TAC 230.10(c) been determined?
 YES NO
30. If YES, provide the aquifer parameters as determined, including units as applicable (check here if a. through i. below are N/A:):
- a. Rate of yield and drawdown: _____
- b. Specific capacity: _____
- c. Efficiency of the pumped well: _____
- d. Transmissivity: _____
- e. Coefficient of storage: _____
- f. Hydraulic conductivity: _____
- g. Were any recharge or barrier boundaries detected? YES NO
 If YES, please describe: _____

- h. Thickness of aquifer(s): _____
31. Have time-drawdown determinations been calculated as required under 30 TAC 230.10(d)(1)? YES NO
32. Have distance-drawdown determinations been calculated as required under 30 TAC 230.10(d)(2)? YES NO
33. Have well interference determinations been made as required under 30 TAC 230.10(d)(3)? YES NO
34. Has the water quality analysis required under Section 230.9 of this title been compared to primary and secondary public drinking water standards as required under 30 TAC 230.10(e)? YES NO
35. Does the concentration of any analyzed constituent exceed the standards?
 YES NO
 If YES, list the constituent(s) and concentration(s) that exceed standards:

Certification Form: Groundwater Availability for Platting

Groundwater Availability and Usability Statements, 30 TAC 230.11(a) and (b)

Complete the following by filling in the blanks or answering YES/NO as applicable:

- 36. Drawdown of the aquifer at the pumped well(s) is estimated to be _____ feet over a ten-year period and _____ feet over a 30-year period.
- 37. Drawdown of the aquifer at the property boundary is estimated to be _____ feet over a ten- year period and _____ feet over a 30-year period.
- 38. The distance from the pumped well(s) to the outer edges of the cone(s)-of-depression is estimated to be _____ feet over a ten-year period and _____ feet over a 30-year period.
- 39. The recommended minimum spacing limit between wells is _____ feet with a recommended well yield of _____ gallons per minute per well.
- 40. Available groundwater is of sufficient quality to meet the intended use of the platted subdivision. YES NO
- 41. The groundwater availability determination does not consider the following conditions (identify any assumptions or uncertainties that are inherent in the groundwater availability determination): _____

Certification of Groundwater Availability, 30 TAC 230.11(c)

Must be signed by a Texas Licensed Professional Engineer or a Texas Licensed Professional Geoscientist.

42. I, _____, a
 _____ Texas Licensed Professional Engineer,
 _____ Texas Licensed Professional Geoscientist,
 license number _____, based on best professional judgment, current groundwater conditions, and the information developed and presented in this form, certify that adequate groundwater is available from the underlying aquifer(s) to supply the anticipated use of the proposed subdivision.

Signature _____

Date _____ (affix seal)