

# Stephens County

## Subdivision Regulations

Effective as of  
the 14<sup>th</sup> day of December, 2020

Approved and Accepted by  
Stephens County Commissioner's Court

On the 30<sup>th</sup> day of June, 2020

### INTRODUCTION

The purposes of this Court Order and these Subdivision Regulations are to provide for the safety, health and well-being of the general public by requiring that adequate streets, drainage, water and sewage facilities be installed in all residential subdivisions and to provide guidelines for the construction and installation of such streets and facilities in a manner that will allow for the efficient maintenance and upkeep without imposing an extraordinary burden on the taxpayers of Stephens County, Texas. All departments and agencies of Stephens County, Texas, stand ready to assist individuals, builders, and developers in achieving overall performance standards as outlined herein. This Court Order and Subdivision Rules and Regulations are in no way intended to restrict residential or commercial development in Stephens County, Texas, but rather, they are intended that through public and private sector cooperation, Stephens County, Texas, can achieve and maintain a quality and standard of life which reflects the highest traditions and standards of its citizenry. In specific cases where a literal interpretation of any section would create an undue economic hardship on the builder or developer, variances may be sought, provided the overall performance standards are met. It should not be inferred, however, that specific requirements might be ignored. Enforcement authority and penalties for violations are outlined and the Commissioner's Court will pursue its legal rights to gain compliance.

In any case where questions arise as to the interpretation of the language in any section(s) of these regulations, then such question(s) will be directed to the County Commissioner having jurisdiction for resolution. If a resolution is not forthcoming, the Applicant can appear before the Stephens County Commissioner's Court for a final resolution. Applications for any subdivision approval shall be processed on a case-by-case basis and a given application may name only one (1) Subdivision as the subject for approval. The Commissioner's Court may amend this Subdivision Rules and Regulations Order to make non-substantive changes from time to time following notice and the vote of a simple majority of the Commissioner's Court, and may adopt new, substantive requirements pursuant to this Order following public notice, hearing and compliance with requirement of law.

The Stephens County Commissioner's Court may from time to time amend these Subdivision Rules and Regulations, in accordance with appropriate procedures provided by law. It shall be the responsibility of the owner/subdivider/developer to obtain the most current Subdivision Rules and Regulations as adopted by the Stephens County Commissioner's Court.

Chapter 1

GENERAL AND ADMINISTRATIVE PROVISIONS

**REGULATING THE FILING FOR RECORD OF SUBDIVISION PLATS AND OTHER REQUIREMENTS PERTINENT THERETO AND ESTABLISHING CONSTRUCTION STANDARDS FOR ALL SUBDIVISIONS SITUATED OUTSIDE THE BOUNDARIES OF BRECKENRIDGE, STEPHENS COUNTY, TEXAS.**

**THE STATE OF TEXAS, COUNTY OF STEPHENS, IN COMMISSIONER'S COURT OF STEPHENS COUNTY, TEXAS, on the \_\_\_\_\_ day of \_\_\_\_\_, 2020**

**WHEREAS:** Stephens County, Texas, wishes to establish standards and specifications for the development of subdivisions of land, as defined by Chapter 232 of the Texas Local Government Code, including the provision of utilities, the construction of roads and drainage, and the provision of fresh water and waste-water, including private on-site sewage facilities and development within the floodplain, and

**WHEREAS:** These regulations are enacted to implement the powers conveyed to counties under the laws of the State of Texas, including but not limited to: Texas Local Government Code annotated, Chapter 232 (Authority to adopt and enforce subdivision regulations and require plat approval, specifically including Subchapter E, (related to Infrastructure Planning); Texas Local Government Code Ann., Chapter 233, related to regulation of Housing and Structures); Tex. Local Gov't Code Ann. Section 242.001 (authority to regulate subdivisions pursuant to all statutes applicable to counties within the extraterritorial jurisdiction of municipalities); Texas Transportation Code Ann., Chapter 251 (general control over all roads, highways and bridges); Tex. Health and Safety Code Sections 121.003 and 122.001 (authority to enforce laws and appropriate funds necessary to protect public health); Tex. Health and Safety Code Ann., Chapter 364 (County solid waste disposal systems); Tex. Health and Safety Code Ann., Chapter 365 (regulations of public highways for litter control); Tex. Health and Safety Code Ann., Chapter 366 (authority to adopt standards for on-site sewage facilities); Tex. Utilities Code Ann., Sections 181.021-.026 (regulation of gas utility lines within county right-of-way); Tex. Water Code Ann. Chapter 16, et seq. (authority to set standards for the provision of water/sewer/waste-water and construction within floodplain and to guide development of future development to minimize damage caused by floods); Tex. Water Code Chapter 26 (Water Quality Control) and Tex. Water Code Ann. Chapter 54 (municipal utility districts); These statutes, listed here as illustrative and not exclusive grants of authority to Texas counties, empower the County to enact subdivision rules and regulations and to provide for its administration, enforcement, and amendment; and

**WHEREAS:** The County Commissioner's Court is empowered with the authority to formulate such rules and regulations by the foregoing authority, and the Commissioner's Court has favorably received and voted on these rules in the belief that these regulations be adopted in order to preserve and protect the resources, public health and private property interests of Stephens County, Texas, following public notice, investigation and public hearing, and does hereby declare and hereby adopts these regulations to be necessary and appropriate to accomplish the purposes and goals enumerated above.

**NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONER'S COURT OF STEPHENS COUNTY, TEXAS, THAT THE FOLLOWING SUBDIVISION REGULATIONS BE ADOPTED, AS FOLLOWS:**

**1.1 Authority**

(a) Notwithstanding any provision to the contrary, these rules apply to any subdivision of land which 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 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.

(b) A division of a tract under Subsection (a) includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

**1.2 Plat Required**

(a) The owner of a tract of land located outside the corporate limits of a municipality that divides the tract in any manner that creates two or more lots or tracts must have a plat of the subdivision prepared, unless the proposed division is exempt by state law, or by an act of the Commissioner's Court in response to a request for a discretionary exemption.

(b) 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.

(c) No subdivided land shall be sold or conveyed until the subdivider:

- (1) Has received approval of a final plat of the tract; and
- (2) Has filed and recorded a legally approved plat with the Stephens County Clerk's Office

(d) 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) If the property is located within the extraterritorial jurisdiction of a municipality, the developer shall be responsible for complying with the applicable regulations of the controlling entity, and/or the provisions of any applicable inter-local agreements between Stephens County, Texas, and any affected municipality. Generally, in cases where the County and municipality have regulations that differ, the more restrictive regulations will take precedent and be enforced.

- (f) To be recorded, the plat must:
  - (1) Describe the subdivision by metes and bounds;
  - (2) Locate the subdivision with respect to an original corner of the original survey of which it is a part; and
  - (3) State the dimensions of the subdivision and of 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.
- (g) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.
- (h) The plat must be filed and recorded with the county clerk of Stephens County, Texas.
- (i) The plat is subject to the filing and recording provisions of Section 12.002, Texas Property Code.
- (j) The plat application submitted for approval shall include a digital map that is compatible with mapping systems that geo-reference the subdivision plat and related public infrastructure using the Texas Coordinate Systems adopted under Section 21.071, 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 for a digital map is provided if the owner 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.

### **1.3 Exceptions to Platting Requirements**

Pursuant to Section 232.0015, Texas Local Government Code, the following divisions of land are exceptions provided by state law from these subdivision regulations:

- (a) Stephens County, Texas, may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:
  - (1) The owner does not lay out a part of the tract as 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, *and*
  - (2) The land is to be used primarily for agricultural use, as defined by Section 1-d, Article VIII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1-d-1, Article VIII, Texas Constitution.
  - (3) If a tract described by Subsection (b)(2) ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of this subchapter shall apply.

- (b) Stephens County, Texas may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into four or fewer parts **and does not** lay out a part of the tract as 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, **if** each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code.

If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this subchapter apply.

- (c) Stephens County, Texas, may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:
- (1) All of the lots of the subdivision are more than 10 acres in area; and
  - (2) The owner does not lay out a part of the tract as 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.
- (d) Stephens County, Texas, may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts and does not lay out a part of the tract as 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 tract as streets, alleys, squares, parks, or other parts to have a plat of the subdivision prepared if all the lots are sold to veterans through the Veterans' Land Board Program.
- (e) The provisions of this subchapter shall not apply to a subdivision of any tract of land belonging to the state or any state agency, board, or commission or owned by the permanent school fund or any other dedicated funds of the state **unless** the subdivision lays out a part of the tract as 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.
- (f) Stephens County, Texas, may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:
- (1) The owner of the land is a political subdivision of the state;
  - (2) The land is situated in a floodplain; **and**
  - (3) The lots are sold to adjoining landowners.

(g) Stephens County, Texas, may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two parts to have a plat of the subdivision prepared if:

- (1) The owner does not lay out a part of the tract as 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, and
- (2) One new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of this chapter.

(h) Stephens County, Texas, may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two parts to have a plat of the subdivision prepared if:

- (1) The owner does not lay out a part of the tract as 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; *and*
- (2) All parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.

### **1.3.1 Discretionary Exceptions**

To determine whether specific divisions of land are required to be platted, Stephens County, Texas, may define and classify the divisions. Stephens County, Texas need not require platting for every division of land otherwise within the scope of this subchapter. For example only, a proposed division of land that contains not more than four (4) lots or tracts, with each lot or tract having direct frontage or side-access to a publicly maintained road or highway, and the owner does not propose to lay out, as a portion of the subdivision, internal 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, might be considered for an exception upon application and the submission of sufficient documentation to warrant granting an exception to these regulations.

Any excepted division of land granted under this section that is intended for residential purposes shall nonetheless comply with minimum standards regarding water and sewer standards imposed by this subdivision regulation.

### **1.4 Supersession**

These rules supersede any conflicting regulations of Stephens County, Texas.

## 1.5 Severability

If any part or provision of these regulations, or application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Commissioner's Court hereby declares that it would have enacted the remainder of these regulations without any such part, provision or application.

## 1.6 Definitions

For the purposes of this Court Order the following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

Words used in the present tense shall include the future tense.

The singular shall also include the plural.

The word person shall also include individuals, corporations, partnerships, limited liability companies, and all other business entities.

The term "mandatory" shall always mean **mandatory**.

The term "may" shall always mean **permissive**.

- (1) **Abandonment** – The legal process by which land dedicated to public use may revert to private use.
- (2) **Administrative Officers** – Any office referred to in this Court order by title, such as County Judge, County Commissioner, County Attorney, County Clerk, County Engineer, etc....shall be the person so retained in this position by election, County appointment, or County employment or their duly authorized representative.
- (3) **Alley** - A minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise on a street.
- (4) **Base Flood** – The flood having a one percent (1.0%) chance of being equaled or exceeded in any given year, determined based upon FEMA (Federal Emergency Management Agency) guidelines and as shown in the current effective Flood Insurance Study for Stephens County, Texas.
- (5) **Base Flood Plain** – That area subject to inundation by flood, having a one percent (1.0%) probability of occurrence in any given year, based on existing conditions of development within the watershed area, as determined by the Flood Insurance Study for Stephens County, Texas, provided by the Federal Emergency Management Agency.
- (6) **Block** - A tract or parcel of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, highways, streams, lakes, or corporate boundaries.
- (7) **Building** – Any structure built for support, shelter, or enclosure of persons, animals, or movable property of any kind.

- (8) **Building Setback Line** - The line within a lot or tract defining the minimum horizontal distance between a building or other structure and the adjacent street line.
- (9) **Commission** – The Texas Commission on Environmental Quality (TCEQ) and any of its predecessor or successor entities.
- (10) **Commissioner’s Court** – The Commissioner’s Court of Stephens County, Texas
- (11) **Construction Plans** - See Engineering Plans
- (12) **County** – Stephens County, Texas
- (13) **County Attorney** - A term that shall apply only to such legally elected or appointed individual to the Office of the Stephens County Attorney, a County Attorney Pro-Tem appointed as County Attorney for a limited time or for a limited case or a firm qualified to represent clients in a court of law and to advise clients on legal matters and having been specifically designated by the Stephens County Commissioner’s Court.
- (14) **County Commissioner** – The officially elected, appointed, or authorized County Commissioner of a particular precinct of Stephens County, Texas, or the County Commissioner’s duly authorized representative.
- (15) **County Engineer** - A term that applies only to such Registered Professional Engineer or firm of Registered Professional Consulting Engineers that have been specifically designated by the Stephens County Commissioner’s Court.
- (16) **County Road** - A public Road or street which has been either dedicated to public use and accepted for same by the Stephens County Commissioner’s Court or acquired by Stephens County, Texas, through prescription or otherwise or is a road or street that was constructed by and is maintained by a Stephens County Commissioner in his designated precinct.
- (17) **Court** - The Stephens County Commissioner’s Court
- (18) **Cul-de-sac** - A street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.
- (19) **Dead-End-Street** - A street, other than a cul-de-sac, with only one outlet.
- (20) **Developer** - See Subdivider
- (21) **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.
- (22) **Easement** - An area for restricted use on private property upon which any public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective systems on any of these easements.



Public utilities shall at all times have the right of ingress and egress upon an Easement for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

- (23) **Engineer** – A person duly authorized under the provisions of the Texas Engineering Practice Act, as heretofore or hereinafter amended, to the profession of Engineering and who is specifically qualified to design and prepare construction plans and specifications for Subdivision development.
- (24) **Engineering Plans** - A set of drawings and/or specification, including paving, water, wastewater, drainage, or other required plans, submitted to Stephens County Commissioner's Court for review in conjunction with a Subdivision or a development.
- (25) **Extraterritorial Jurisdiction** - The unincorporated area of Stephens County, Texas, that is contiguous to the corporate boundaries of a municipality, more specifically described in Section 42.021 Texas Local Government Code, as same may exist or be amended in the future.
- (26) **FEMA** - Federal Emergency Management Agency
- (27) **FIA** - Federal Insurance Administration
- (28) **Final Acceptance** - Acceptance by the Stephens County Commissioner's Court of all public infrastructure improvements constructed by the Subdivider in conjunction with the development of land.
- (29) **Final Plat: (Also Record Plat or Filing Plat)** - The one official and authentic map of any given Subdivision of land prepared from actual field measurements and staking of all identifiable points by a Surveyor with the Subdivision location referenced to a survey corner and all boundaries, corners, and curves of the land division sufficiently described so that they can be reproduced without additional references. Angular measurements and bearings shall be accurate to the nearest minute. Distances shall be accurate to the nearest tenth of a foot. The Final Plat of any lot, tract, or parcel of land shall be recorded in the Official Public Records, Stephens County, Texas.
- (30) **Flood Hazard Boundary Map (FHBM)** - An official report provided by the Federal Insurance Administration (FIA) where the areas of special flood hazards have been designated.
- (31) **Flood Insurance rate Map (FIRM)** - An official map on which the Federal Insurance Administration (FIA) has delineated both the areas of special flood hazards and the risk premium zones applicable to flood insurance.
- (32) **Flood Insurance Study** - The official report provided by the Federal Insurance Administration (FIA) containing flood profiles, the water surface elevation of the base flood and the flood hazard boundary map.
- (33) **Flood Plain** - The area subject to be inundated by water from the base flood.
- (34) **Floodway** - A drainage area designated on a plat to accommodate the design flood for existing creeks and open drainage ways.

- (35) **Flood Easement** - A drainage area dedicated to the County for control and maintenance of a flood plain.
- (36) **Freeboard** - The vertical distance between the designated water surface level and the top of an open conduit left to allow for wave action, floating debris or any other condition or emergency without overtopping the structure.
- (37) **Homeowners (Property Owners)** - A formal nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a specific residential area is automatically a member and (b) each lot or property interest is automatically subject to a charge for a proportionate share of the expense for the organization's activities, such as maintenance of common property, and (c) the charge, if unpaid, becomes a lien against the non-paying member's property.
- (38) **Infrastructure** - All roads, streets, alleys, storm drainage, drainage, water, and wastewater facilities, utilities, and other facilities as required by the Stephens County Commissioner's Court.
- (39) **Installer** - An individual who holds a valid certificate and is compensated by another to perform services, construct, install, alter, or repair an One-Site Sewage Facility (OSSF).
- (40) **Land Planner** - Persons other than Surveyors or Engineers who also possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial and other relate developments; such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum and/or by actual experience and practice in the file dof land planning and shall be a member of the A.I.P.
- (41) **Lines, Building** - See Building Setback Lines
- (42) **Lot** - An undivided tract or parcel of land having frontage on a public road and which is, or in the future may be offered for sale, conveyance, transfer, or improvement; which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved Subdivision plat which has been properly filed of record.
- (43) **Non-public Water System** - Any water system supplying water for domestic purposes which is not a public water system.
- (44) **Off-Site** - Located outside the boundary of a development.
- (45) **On-Site** - Located within the boundary of a development.
- (46) **On-Site Sewage Facility (OSSF)** - One or more systems of treatment devices and disposal facilities that produce not more than 5,000 gallons of waste each day; and are used only for disposal of sewage produced on the site where the system is located.
- (47) **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.

- (48) **Pavement Width** - The portion of a road available for vehicular traffic. Where curbs are laid, it is the portion between the face of the curbs. Otherwise, it is the portion between the edges of the pavement.
- (49) **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.
- (50) **Platted** - Recorded with the county in an official plat record.
- (51) **Precinct Commissioner** - The Stephens County Commissioner in whose precinct a Subdivision is being planned or built.
- (52) **Preliminary Plat** - The graphic expression of the proposed overall plan for subdividing, improving, and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan existing and proposed drainage features and facilities, road layout and direction of curb flow, and other pertinent features with notation sufficient to substantially identify the general scope and detail of proposed development.
- (53) **Private Sewage Facility** - All systems and methods, other than organized disposal systems, used for the disposal of sewage and operated under a valid permit issued by Stephens County.
- (54) **Public Water System** - A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.
- (55) **Purchaser** - Shall include purchasers under executory contracts for conveyance of real property.
- (56) **Registered Public Land Surveyor** - A person duly authorized under the provisions and statutes of the Texas Surveyors Registration Act to practice the profession of surveying.
- (57) **Re-platting** - The re-subdivision of any part or all of any block or blocks of a previously platted Subdivision, addition, lot, or tract.

- (58) **Retail Public Utility** – Any entity meeting the definition of a retail public utility as defined in Water Code §13.002.
- (59) **Right-of-Way** - That portion of a Subdivision dedicated for public roads with the adjacent lot lines being the boundaries of the right-of-way.
- (60) **Road, County** - See County Road
- (61) **Road Width** - The portion of a road available for vehicular traffic including the County right-of-way
- (62) **Sewage Disposal Plan** - A technical report prepared by either a Registered Professional Engineer, a Registered Sanitarian, or a person who is certified to prepare a Sewage Disposal Plan in accordance with the Texas Commission on Environmental Quality (TCEQ) requirements. The Plan shall describe the circumstances involved with sewage disposal on a land or tract has been or proposed to be subdivided.
- (63) **Sewage Facilities** – The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.
- (64) **Site Evaluator** - An individual who holds a valid certificate and visits a site and conducts a pre-construction evaluation which includes performing soil analysis, a site survey, and other criteria necessary to determine the suitability of a site for a specific On-Site Sewage Facility (OSSF).
- (65) **Subdivider** – Any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision as that term is defined herein. In any event, the term “Subdivider” shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, of land sought to be subdivided.
- (66) **Subdivision (Also Re-Subdivision)** – Any tract of land divided into two or more parts that result in the creation of two or more lots as defined by this regulation to lay out:
- (a) A subdivision of the tract of land, including an addition;
  - (b) Lots; or
  - (c) Streets, alleys, squares, parks, or other parts of the tract of land 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.

A subdivision includes re-subdivision (re-plat) of land which was previously divided.

The foregoing terms include a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

The foregoing terms shall not be construed to include the division of an existing tract of land which meets one or more of the exemptions to plat requirements specifically set forth in Section 232.0015 Texas Local Government Code as it currently exists or may be amended or re-codified from time to time.

- (67) **Surveyor** - See Registered Public Land Surveyor
- (68) **TAC** – Texas Administrative Code, as compiled by the Texas Secretary of State.
- (69) **TCEQ** - Texas Commission on Environmental Quality
- (70) **Utility Easement** - See Easement
- (71) **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.

## Chapter 2

### Minimum Standards

#### 2.1 Scope of Standards

The establishment of a residential development with two or more lots where the water supply and sewer services do not meet the minimum standards of this division is prohibited. A subdivision with lots of five acres or less is presumed to be a residential development unless the land is restricted to nonresidential use on the plat and all deeds and contracts for deeds. An industrial subdivision may not require water/wastewater systems *only if* there are no office or other work spaces that will be occupied by human beings during business hours.

##### 2.1.1 Water Facilities Development

###### (a) Public water systems

(1) Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat.

(2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the commission. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC §§290.38-290.51 and §§290.101-290.120.

If the groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements of 30 TAC §§230.1 through 230.11 for water availability for new public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, which will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(b) Non-public water systems.

Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements of 30 TAC §§230.1 through 230.11 for individual water supply wells on individual lots and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC §§290.104, 290.106, 290.108 and 290.109, either:

- (1) Without any treatment to the water; or
- (2) With treatment by an identified and commercially available water treatment system.

(c) Transportation of potable water

The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.

**2.1.2 Wastewater Disposal**

(a) Organized sewage facilities.

(1) Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the commission in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317 from the commission.

(2) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement 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 description of means and methods for the proposed wastewater collection lines must comply with 30 TAC Chapter 317.

## **(b) On-site sewage facilities**

(1) On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than 5,000 gallons per day must comply with 30 TAC Chapter 285.

(2) Proposals for sewage facilities for the disposal of sewage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317.

(3) The commission or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in particular §§285.4, 285.5 and 285.30-285.39. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC §285.3(i), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

### **2.1.3 Greywater Systems for Reuse of Treated Wastewater**

(a) Organized or municipal sewage systems. Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by the commission.

(b) On-site sewage facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC Chapter 285.

### **2.1.4 Drainage Structures**

The location, dimension, description and flow line of existing drainage structures and drainage structures proposed to be installed within the subdivision shall be shown on the plat or an attached exhibit to the plat, prepared by a licensed Engineer, to be submitted with the plat. Blocking the flow of water or construction of improvements in a drainage easement and/or filling of a floodway is prohibited.

The drainage plan shall show existing topography of the proposed subdivision by use of contour lines and proposed changes to topography. Any existing 100-year floodplain shall be shown on plat, if no part of the subdivision lies within a 100-year floodplain, then it shall be noted on the plat.

Any lot shown within a 100-year floodplain shall show a minimum finished floor elevation, two (2) feet above the Base Flood Elevation (BFE). The plat shall contain a north arrow, scale, location map and date plat was prepared.

### **2.1.5 Sludge Disposal**

The disposal of sludge from water treatment and sewage facilities shall meet the criteria of 30 TAC Chapter 312 and Chapter 317.

## **2.2 Setbacks/Public Utilities**

The Commissioner's Court of Stephens County, Texas, hereby finds that the general welfare will be promoted by the following set-back lines from all public roads, pursuant to §233.032 of the Texas Local Government Code.



The Commissioner's Court hereby prohibits the location of a new building within the following building or set-back lines.

- (1) A building under this subchapter may not be constructed any closer than 25 feet from the edge of the right-of-way on all public roads other than major highways and roads; or
- (2) No closer than 50 feet from the edge of the right-of-way of major highways or roads.

The Commissioner's Court may designate the public roads that are major highways and roads at the time of the initial application for subdivision of land.

The plat shall provide for utility service within the proposed subdivision, with utility easements of no less than ten (10) feet shall be provided along each property line of all lots. Surface utilities are to be placed within five (5) feet of the property line. Subsurface utilities are to be placed with ten (10) feet of the property line. Easements are to be described in the deed, and must show the same on the plat, i.e.; the proposed water supply shall be clearly indicated, i.e.; municipal water, rural water supply corporation, privately owned water system, individual well, etc., including location of fire plugs, fire department filler plugs or hydrants. Filler plugs or hydrants shall have proper hose connections every 750 feet, or in compliance to fit the equipment of the fire department serving the jurisdiction. Water supply must be approved before lots are sold.

The plat shall describe any means for sewage disposal, i.e., municipal sewer service, privately owned sewage disposal system, individual septic tank, etc. Where OSSF is the designated sewage system, the plat shall bear a notation that the design and installation of the OSSF septic system shall comply with regulations of the Texas Commission on Environmental Quality. Final authority as to design and installation of the system for sewage disposal shall be conducted by individuals holding proper credentials, and shall be approved by the Stephens County Commissioner's Court, or TCEQ Designated Representative. The plat shall designate any areas not suitable for ordinary OSSF systems. Such areas shall require special systems approved by the Stephens County Commissioner's Court, or TCEQ Designated Representative. The stipulation for sewage disposal shall be inserted into each deed to said purchasers.

**2.7 Number of Dwellings Per Lots Less Than One Acre (this section could be contrary to 232 101 Local Government Code)**

No more than two single family detached dwellings shall be located on each lot under an acre. 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.

A proposed subdivision that will rely upon OSSF systems and water wells must comply with TCEQ regulations and state law regarding the density of housing units sustainable pursuant to health and safety standards of the TCEQ and state law.



## **2.8 Stephens County, Texas, Infrastructure Requirements For RECREATIONAL VEHICLE PARKS**

### **1. DEFINITIONS:**

**OPERATOR** - Includes the person in charge of operating any recreational vehicle park, either under written or verbal (oral) lease, or any other arrangement whereby he or she exercises control over the premises.

**OWNER** – Includes the person in whose name the title to the lot, block, tract, or parcel of land is shown to be.

**PERSON** – any natural individual, firm, trust, partnership, association, limited liability company, or corporation.

**RECREATIONAL VEHICLE** – Includes any of the following:

(1) **CAMPING TRAILER** – A folding structure mounted on wheels and designed for travel, recreation, and vacation use.

(2) **MOTOR HOME** – A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

(3) **PICKUP COACH** – A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

(4) **TRAVEL TRAILER** – A vehicular structure built on a chassis with body width not to exceed eight feet and body length less than 46 feet, that structure designed to be transported and intended for human occupancy as a dwelling for short periods of time and containing limited or no kitchen or bathroom facilities.

**RECREATIONAL VEHICLE PARK** – Any lot or tract of land designed to accommodate two or more recreational vehicles, as defined, and which exist as a privately owned and operated enterprise with or without charges for the parking of recreational vehicles occupied or intended to be occupied for dwelling or sleeping purposes for any length of time. Hunting camps that are temporary are excluded.

**RECREATIONAL VEHICLE SPACE** – A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle.

### **2. RECREATIONAL VEHICLE PARK**

(1) The owner of land located in Stephens County, Texas, outside the limits of a municipality who intends to use the land for a Recreational Vehicle Park must have a Plat prepared that complies with the minimum infrastructure standards that are set out below in Section 3.

(2) Prior to beginning any construction, the owner must submit the plan to the Stephens County Engineer for approval. Construction may not begin before the plan is approved.

(3) Not later than the 60<sup>th</sup> day after the date the plan is submitted, the Stephens County Engineer shall approve or reject the plan in writing. If the plan is approved, construction may begin immediately. If the plan is rejected, the written rejection shall specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within the period prescribed by this subsection constitutes approval of the plan.

(4) The Stephens County Engineer, as well as any other person designated by either the Stephens County Engineer or the Commissioner's Court, may inspect the infrastructure at any reasonable time during construction, and the owner and his agents shall not hinder such inspections.

(5) On completion of construction, the owner shall confirm in writing to the Stephens County Engineer that the infrastructure is complete, and a final inspection must be completed not later than the second business day after the notice is received by the County's inspector. If the inspector determines that the infrastructure does not fully comply with the plan, the owner shall be given an opportunity to cure the defects. On completion of curative construction, the owner should request another inspection.

(6) When the inspector determines that the infrastructure complies with the plan, the Commissioner's Court shall issue a Certificate of Compliance not later than the fifth business day after the final inspection is completed.

(7) A utility may not provide utility services, including water, sewer, gas, and electric services, to a recreational vehicle park or to a recreational vehicle in the community unless the owner provides the utility with a copy of the Certificate of Compliance.

### **3. INFRASTRUCTURE REQUIREMENTS**

The plat for a Recreational Vehicle Park must include each of the following:

1) A survey identifying the proposed community's boundaries and any significant feature of the community, including the proposed location of lots or spaces, utility easements and dedication of rights-of-way. The survey may also contain features to help provide the additional information required by this order.

2) Reasonable specified description of means and methods to provide adequate drainage in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100-year flood plain. The placement of any structure within the regulatory floodplain shall be in accordance with the Stephens County Floodplain regulations

3) Reasonable specified description of means and methods to provide an adequate public or community water supply, including specifying the location of supply lines, in accordance with Subchapter C, Chapter 341, Health and Safety Code. If water is to be provided by a utility, a certification by the utility that water is available for each of the planned spaces or lots must be attached to the plan.

4) Certification that adequate groundwater is available for the development. If ground-water is the source of water supply for the development, the developer is required to obtain certification, by a licensed professional engineer (or other professionals designated by State law) registered to practice in Texas, that adequate groundwater is available for the development, according to the certificate form and content as promulgated by the Texas Commission On Environmental Quality (Lack of certification that suitable and adequate groundwater is available is grounds for denial of plat approval, if groundwater is the proposed source of water). The certification document shall be recorded as part of the dedication instrument and a note shall be placed on the plat that groundwater is to be the source of water.

5) Either:

- a) Reasonably specified description of means and methods to provide access to sanitary sewer lines, including specifying the location of the sanitary sewer lines. If sewage treatment is to be provided by a utility, a certification by the utility that service for each of the planned spaces or lots is available must be attached to the plan. If the sewage is to be treated in some other way, approval by the relevant government agency that is to license or inspect the treatment facilities must be attached; or
- b) Reasonably specified description of means and methods for providing on-site sewage facilities in accordance with Chapter 366, Texas Health and Safety Code if estimated sewage flow does not exceed 5,000 gallons per day (gpd). These descriptions of means and methods must meet minimum standards established under Chapter 285.4 of the OSSF rules and Stephens County local order. Approval by the Stephens County Public Health-Environmental Health officer must be attached to the plat.
- c) Reasonably specified description of means and methods for providing sewage treatment and disposal under Chapter 26 of the Texas Water Code if estimated flow exceeds 5,000 gpd approval by Texas Commission on Environmental Quality must be attached to the plan.
- d) Reasonably specified description of means and methods for streets or roads in the Recreational Vehicle Park to provide ingress and egress for fire and emergency vehicles.

i.) Therefore, the Commissioner's Court finds that it is reasonably necessary that streets in these communities should be built to the same standards (but to no more stringent standard) than the requirements adopted by the Court for subdivisions.

ii.) The road design and construction standards contained in the Stephens County Subdivision Regulations, as amended from time to time, are therefore incorporated by reference into this order as fully and completely as if set out verbatim herein. The street or road specifications in the infrastructure development plan must comply with those standards to the maximum degree practicable.

iii.) Building Set Backs shall be as specified in the Stephens County Subdivision Regulations (Sect. 301.1).

iv.) Drainage design for the development shall comply with the Stephens County Subdivision Regulations (Sect. 307).

v.) Commissioner's Court (but not the County Engineer) may grant a variance when strict application of these standards would work an unusual hardship. Variances for OSSF can only be granted by Stephens County Public Health Official.

#### **4. RECREATIONAL VEHICLE PARK REGULATIONS**

(a) The regulations described herein govern the development, operation, and maintenance of recreational vehicle parks, as previously defined.

(i) **Park development requirements.** Recreational vehicle parks shall be developed to conform to those requirements as herein delineated.

(ii) Recreational vehicle parks shall be designed so as not to exceed a maximum of 20 units per acre.

(iii) Parking facilities shall be provided at the park office as will accommodate five recreational vehicles.

(iv) Each recreational vehicle space shall afford parking and maneuvering space sufficient so that the parking, loading, and the like, of recreational vehicles shall not necessitate the use of any public right-of-way or privately-owned property which may abut the park.

(v) Each recreational vehicle space provided with electrical service shall be so served through an underground distribution system. The park office and service buildings may receive electrical service as provided through overhead facilities.

(vi) Each park shall provide recreation vehicle parking spaces and each such space shall be clearly defined. Twenty (20%) of the parking spaces shall be not less than eighteen (18) feet by fifty (50) feet. There must be at least a ten-foot clearance of space between adjacent rows of parking spaces.

(vii) Be improved with compacted crushed road base material and asphalt or concrete adequate to support the weight of the recreational vehicle.

(viii) Not heave, shift, or settle unevenly under the weight of the recreational vehicle due to frost action, inadequate drainage, vibration or other forces acting on the structure.

(b) The entrance to the park shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets.

- (c) Hard surface private streets adequate to provide access to each recreational vehicle space shall be constructed and maintained in good condition by the licensee and the width of which shall be not less than twenty-four (24) feet.
- (d) The park shall comply with state and federal standards for accessibility for the mobility impaired. The applicant shall show proof of compliance.
- (e) **Service buildings; laundry and sanitation facilities.** Each recreation vehicle park shall provide one or more service buildings for the use of park patrons.
  - (1) The service buildings shall provide for:
    - (i) One flush toilet for women;
    - (ii) One flush toilet for men;
    - (iii) One lavatory for each sex;
    - (iv) One shower and dressing accommodation for each sex, provided in an individual compartment or stall;
    - (v) One washing machine; and
    - (vi) One slop sink, not less than 14 by 14 inches square and 14 inches deep.
  - (f) The aforementioned amenities shall accommodate not more than 50 recreational vehicle spaces. For each additional 30 recreational vehicle spaces or fraction thereof one flush toilet, one shower with individual dressing accommodations, and one lavatory shall be provided for each sex, with laundry and slop sink facilities as described in divisions (b)(1)E and (B)(1)(f) to be provide for each additional 50 recreational vehicle spaces.
  - (g) All unisex bathrooms shall comply with the Americans with Disabilities Act. (ADA).
  - (h) Service building requirements. Service buildings providing the aforementioned facilities shall satisfy requirements and include:
    - (i) Service buildings housing sanitation or laundry facilities shall be permanent structure which comply with all applicable laws and ordinances regulating buildings, electrical installation, plumbing and sanitation systems;
    - (ii) Service buildings shall afford appropriate illumination, shall be well ventilated with screened openings, shall be constructed of moisture-proof materials, to include painted woodwork, as shall permit frequent clearing and washing, and shall be maintained at a temperature of 68° F during the period October 1 through May 1. Floors shall be constructed of concrete or other equally impervious material, easily cleanable, and provided with floor drains which are connected to the sanitary sewer. If connected to On Site Sewage Facilities chemical cleaners should be used on a limited basis.
  - (i) The toilet and other sanitation facilities for males and females either shall be in separate buildings or shall be separated, if in the same building, by a soundproof wall;

(j) All service builds and park grounds shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance; and

(k) Service buildings housing sanitation facilities shall be located not closer than 15 feet nor farther than 300 feet from any recreational vehicle space within the park.

**(l) Garbage Receptacles**

(i) Each recreational vehicle park shall provide a minimum of two fly tight, water-tight, rodent proof dumpsters for the first one-hundred (100) sites with one (1) additional dumpster for each one-hundred (100) sites or fraction thereof.

(ii) Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped over, to minimize spillage and container deterioration and to cleaning around them. Construction shall conform to (4)(A)(5) this section.

(iii) The storage, collection and disposal of refuse in the recreational vehicle park shall be so conducted as to create no health hazards.

(iv) The dumpster shall be screened from public view.

**(m) FUEL**

(i) Bottled gas for cooking purposes shall not be used at individual recreational vehicle spaces unless the containers are properly connected by copper or other suitable metallic tubing.

(ii) Bottled gas cylinder shall be securely fastened in place.

(iii) No cylinders containing bottled gas shall be located in a recreational vehicle or within five (5) feet of a door thereof.

(iv) State and local regulations applicable to the handling of bottled gas and fuel oil shall apply.

**(n) FIRE PROTECTION**

(i) Every park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size, and number and so located within the park so as to satisfy the fire code and other applicable regulations of the County.

(ii) No open fires shall be permitted, except that this shall not be construed to prevent barbecuing with charcoal in an approved pit or grill.

(iii) All sites and any part of a recreational vehicle shall not exceed one hundred fifty (150) feet from the hard surface streets.

(o) **DRY VEGETATION**

The park licensee or agent shall be responsible for maintaining the entire area of the park free of dry brush, leaves and weeds.

(p) **OTHER REGULATIONS:**

Persons developing Recreational Vehicle Parks should be aware that this order is not the exclusive law or regulation controlling development in Stephens County, Texas. The following is only a partial list of regulations that may apply.

(a) Recreation Vehicle Parks are subject to Stephens County Subdivision Regulations. All subdivision within the Extra Territorial Jurisdiction (E.T.J.) of an incorporated city may also be subject to city subdivision regulations, or as per any mutually (County-City) agreed upon regulations as approved and accepted under an interlocal cooperation agreement.

(b) All Recreational Vehicle Parks are subject to regulations of general applicability, including public health nuisances under Chapter 341 and 343 of the Texas Health and Safety Code. The developer must address solid waste disposal, rodent/insect harboring, fly breeding and improper water disposal in accordance with these Chapters.

(c) Other agencies with regulatory authority that may apply to a Recreational Vehicle Park include, but are not limited to, several Emergency Services Districts, the Texas Commission on Environmental Quality, the Public Utilities Commission, the United States Parks and Wildlife Service, the Environmental Protection Agency and the U.S. Army Corp. of Engineers.

Issuance of a Certificate of Compliance under this order does not indicate compliance with any of these requirements.

**2.9 STREETS AND ROADS STANDARDS**

**2.9.1 Requirements**

Notwithstanding the provisions of any other section in this Article II, a sixty-foot right-of-way is hereby required for all paved streets or roads, unless the Stephens County Commissioner's Court deems more is necessary, in subdivisions where the following requirements are met:

(a) Where a County road abuts the subdivision, the owner shall set back the subdivision line twenty-five (25') feet from the edge of any public road, or fifty (50') feet from the edge of a major road as designated by the Stephens Commissioner's Court.

(b) All streets, roads and alleys within each subdivision shall be paved in conformity with the construction standards set out in this regulation.

(c) No utility lines are placed under the street pavement, roads, or rights-of-way except at 90-degree angles and before sub-grade is in place, and cased at a depth of no less than twenty-four (24") inches below the ditch line and shall be a minimum width of ten feet (10') and located along a property or lot line. Any other crossing shall be bored and cased beneath said road. The actual street cut for alley streets in such subdivisions must not be less than twenty (20) feet nor more than thirty-five (35) feet in width.

(d) All permanent dead end streets, cul-de-sacs or roads shall have a turn-a-round with a right-of-way diameter of not less than one hundred forty feet (140') with radius of fifty feet (50') of pavement with a minimum of six inches (6") of compacted rock or Texas road oil at 6% by weight of sand.

### **2.9.2 Road or Street Intersections**

Streets or roads shall be designed and constructed so as to intersect with each other at ninety (90) degree angles. Where compliance with this regulation is impossible, due to terrain, the sub-divider may file a written petition with the Commissioner's Court for a variance contemporaneously with the original submission of the plat to the Court. Said petition shall state concisely why the condition of the terrain makes it impossible to comply with this regulation. The Court shall rule on said petition in its order granting or denying preliminary authorization of the plat. In the event that a variance is granted, the portion of the intersection on the side of the acute angle must be cut back so as to eliminate the point of the acute angle. The intersection must be cut back a minimum of twenty-five (25) feet away from the point where the streets would have otherwise intersected. The Court shall specify the exact size of the cut-back, up to a maximum of fifty (50) feet, in its order granting or denying preliminary authorization of plat. No street or road shall be constructed with an abrupt offset in it.

### **2.9.3 Adjoining Subdivision**

Where streets in an adjoining subdivision end at the property line of a new subdivision, streets and roads in the new subdivision shall be constructed so as to be a continuation, without off-set, and extension of said existing streets in said adjoining subdivision. All streets and roads shall be designed and constructed so as to permit the continuation or extension of said streets and roads in other subdivisions in the future. No streets, roads or alleys shall be constructed across dam or embankment used for purpose of holding water.

### **2.9.4 Acceptance of Plat is not Acceptance of Roads/Streets**

Approval of a plat for filing and development shall not suggest that Stephens County accepts any roads or streets within the subdivision for county maintenance. The decision to accept one or more streets within a subdivision shall be made only upon separate application, review and separate Order entered of record by the Commissioner's Court, but in no case any earlier than after two (2) years have elapsed from the date on which the Commissioner's Court certified completion of construction of the streets and roads of a Subdivision.

Upon such an application for county road maintenance, the Commissioner's Court may consider acceptance of one or more of the streets and roads of the subdivision upon a determination that the roads to be taken into the County road maintenance program serve a public purpose greater than the private benefit realized by persons living within the subdivision. Typically, such subdivision roads to be deemed suitable for public maintenance will be limited to primary arterial or connecting streets that provide efficient access/egress to other existing roadways. Should the Commissioner's Court determine that the application to assume maintenance is sufficient, the Court may designate said streets and roads as County Roads to be kept and maintained as part of the County Road System by separate Order entered of recording the minutes of the Commissioner's Court, and reflected on any maps depicting county maintained roads. Approval of a plat by the Commissioner's Court shall not be deemed an acceptance of any proposed dedications, if any, shown upon the plat, and shall not impose any duty upon the County concerning maintenance or improvements of any such dedications.



The Commissioner's Court will determine which dedications will be accepted for county maintenance based on interconnectivity with existing county or state-maintained roads. The enforcement of any plat or deed restrictions is the responsibility of the Subdivider and property owners in the subdivision.

The plat shall bear the following notation in bold, 14-point type:

**Approval of a plat by the Commissioner's Court shall not be deemed to suggest that Stephens County will eventually accept subdivision streets for public maintenance.**

## **Road/Street Construction Standards**

### **2.9.5 Paving and Material**

All streets and roads shall be constructed with a stabilized sub-grade. The sub-grade material under all streets and roads shall meet or exceed the following minimum requirements:

- (a) Plasticity index value shall be a minimum of 6 and a maximum of 45
- (b) Sub-grade shall be bladed to a depth of twelve inches (12") and compacted with a weighted roller to ninety-five percent (95%) standard proctor density at a depth of six inches (6")
- (c) Base course shall be a minimum of twenty feet (20') Type A Grade 2 flexible base
- (d) Sub-grade shall be watered, bladed and rolled before any flexible base material is place upon it, and
- (e) Sub-grade shall be at least twenty-four feet (24') wide

Paved streets must be twenty-four (24) feet wide and be paved with (1) hot mix asphaltic or, (2) a rock base with a sealcoat surface treatment of (3) 6" oil sand or, (4) a combination of these. One prime coat and one course penetration asphalt surface treatment or tack coat and hot mix must be applied if favorable weather conditions exist. The paving material on paved streets must have a thickness of not less than two (2) inches of hot mix asphaltic compacted or one (1) course of sealcoat surface treatment. The sealcoat material or hot mix material shall be approved by the Commissioner of the Precinct where the subdivision is located.

### **2.9.6 Penetration Asphalt Surface Treatment**

(a) A prime coat of asphalt shall be applied to the base and allowed to set for an adequate period of time (one to two days ordinarily). One course penetration asphalt surface treatment shall then be applied by use of clean, tough and durable aggregate of type 4 maximum sized aggregate. Aggregates to be applied in quantities necessary to thoroughly and properly cover asphalt.

(b) Rolling after aggregates have been applied, a pneumatic roller is to be used on the entire surface until the aggregates are worked into the asphalt properly to the satisfaction of the Commissioner of said Precinct. One course to be applied at completion of road.

### **2.9.7 Flex Base**

All streets and roads must have a flexible base. The flexible base material for all streets and roads in every subdivision shall be: #1 crushed limestone rock, iron ore gravel, or Texas road oil at 6% by weight of the sand of not less than six (6) inches. The flexible base shall have a minimum thickness of (6 to 12) inches after compaction of the authorized base material with approval of County Commissioner of said Precinct, and be twenty-four (24) feet wide. The flexible rock or iron ore gravel base shall be covered with a primer 24 feet wide 1/3 gallon per square yard. All material used must be inspected and approved by the Commissioner of the Precinct wherein the subdivision lies. The center line of each street in every subdivision shall have elevation of at least 3 inches above the elevation of the edge of said street.

### **2.9.8 Concrete Pavement (does the County want to allow any concrete streets)?**

The roads or streets shall consist of concrete being at least six inches thick with ½ inch diameter rebar on 24 inch centers. The base shall be 24 feet wide and may be constructed in the following manner: A maximum four inch flexible base compacted to 95% of Standard Proctor Density or, a minimum of a three inch thick sand cushion (if appropriate for that area of the County or, an optimum design based upon site-specific soil conditions found within the proposed subdivision).

### **2.9.9 Seep Areas**

- (a) Seep areas are to be marked by visual inspection by the contractor and the Precinct Commissioner
- (b) Seep areas shall be drained to a depth of at least 18 inches to two feet below sub-grade elevation by use of subsurface drainage.
- (c) After Seep areas are drained, the subgrade is to be compacted as described hereinabove.

### **2.10 Street Naming**

(a) All roads and streets with a subdivision must be named and marked by the Developer in compliance with 911 requirements.

(b) All road signs must be designed in conformity with the Texas Manual on Uniform Traffic Control Devices, and approved by the Commissioner of the Precinct wherein the subdivision lies.

(c) All roads or streets which are a continuance of any existing road or street shall take the name of the existing road or street.

(d) New private roads and streets shall be named so as to provide continuity of names with existing streets and roads and so as to prevent conflict with identical or similar street or road names in other parts of Stephens County, Texas.

(e) The Developer shall install street or road name signs at all intersections of the same standard and quality as the most recently installed signs on Stephens County roads or streets. The proper installation of street and roads name signs is a part of the required construction standards of Stephens County, Texas. Final approval of construction will not be given by the Stephens County Commissioner's Court until all signs are installed.

(f) All street and road signs assembly will be placed on a post and located two feet (2') behind the curb on curbed roadways, or six feet (6') to ten feet (10') beyond the edge of the roadway. Signs should be placed as near as possible to the tangent point of the edge of the less important roadway with a radius of the curve at the intersection.

## **2.11 Specification of Construction**

The Commissioner's Court may specify that construction of all streets, roads and drainage structures must be started and completed within a reasonable time after the plat approval and description of means and methods of a subdivision have received final authorization from the County, said time period (not to exceed 24 months) must be specified by the Court in its order granting or denying preliminary authorization of the plat.

## **2.12 Drainage Standards**

### **2.12.1 Contour lines on Plat**

Lots and private property shall be graded so that surface drainage from said property shall be taken to streets or drainage courses as directly as possible. Drainage water from roads and streets shall be taken to defined drainage courses as directly as possible. Roads and streets shall not be used as drainage courses. If the contour lines on the final plat indicate that the lot or lots may not drain, the Commissioner's Court shall not approve the plat until correction of said drainage has been completed. A subdivision shall not alter the flow of surface water to the detriment of any adjacent properties, and shall, to the extent necessary by prudent engineering design, provide for the diversion of surface water into natural drainage courses or holding ponds constructed on the property for the purpose of diffusing runoff.

### **2.12.2 Drainage ditches and Structures**

All streets without curbs and gutters shall have drainage ditches adjacent to and running parallel to said streets or roads. Said drainage ditches shall have a minimum depth of 18 inches below the level of the edge of the adjacent street or road. Permanent drainage structures including, but not limited to culverts, pipes, drainage boxes and bridges, shall be installed at all crossings or drainage courses, including drainage ditches with driveways, roads and streets. At least one permanent drive approach with proper drainage, minimum 24 foot pipe, shall be constructed and covered with the same materials as road base and surface to property line.

The exact dimensions and type of said permanent drainage and structure, including culverts, pipes, drainage boxes and bridges, shall be established for each subdivision by the Commissioner's Court in its order granting or denying preliminary authorization of a subdivision plat. Permanent obstacles, such as concrete or rock retards, shall be installed on the sloping sides of drainage ditches and drainage courses to prevent erosion where specifically designated by the Commissioner's Court in its order granting or denying preliminary authorization to the subdivision plat. Open drainage channels and ditches shall be constructed with a proper cross-slope grade and alignment which will facilitate proper functioning without the destruction velocities of drainage waters.

### **2.12.3 Drainage Easements**

All drainage easements for the land being authorized for development must be of adequate width, based upon engineering, or as determined by the Commissioner's Court in its order granting or denying authorization of a subdivision plat, to permit drainage and flood control for all lands whose natural drainage runs through the property being authorized for development. After platting, the Developer shall deliver to the Commissioner's Court of Stephens County the necessary easement for each lot or acreage where there will be a drainage ditch or channel with right to ingress and egress. All drainage easements must be shown on the plat. Drainage Easement provisions shall be made for drainage easements to allow proper control of drainage, and for future maintenance within the easement area. Stipulations for drainage easements shall be inserted in each deed to said purchaser. The Commissioner of the Precinct wherein said subdivision lies is to meet with the contractor at least 30 days prior to submission of plat to Commissioner's Court in planning of culverts and drainage. Prior to building roads within subdivision, all Developers are required to meet with the Commissioner of the Precinct in which the subdivision is located for the purpose of determining the cost of construction of roads to conform with the above requirements.

### **2.12.4 Inspection fee**

In addition to the application fee, a cash fee of ten dollars (\$10.00) per lot in subdivisions having 2-50 lots, and seventy-five dollars (\$75.00) per lot in subdivisions having 51-100 lots, shall be paid by any subdivision developer within Stephens County, Texas, in addition to other fees required herein to defer the cost of drainage inspections.

### **2.13. Emergency Access**

All roads or street must include adequate provisions for ingress and egress access for all fire and emergency vehicles.

### **2.14 Maintenance**

The Owner shall remain responsible for all maintenance and repair of streets and roads within a Subdivision until the Stephens County Commissioner's County, by formal written action or Minute Order, accepts the obligation to maintain and repair such roads. However, the Stephens County Commissioner's Court has the absolute discretion whether to accept such maintenance or to deny such maintenance. The Stephens County Commissioner's Court's decision to approve a Final Plat or dedication of the right of way for a street shall not be deemed to constitute acceptance of the streets for maintenance.

### **2.15 Obstruction**

No decorative signs, squares, trees, islands, ornamental entrances or any other obstruction to traffic shall be constructed or preserved within the right of way of a street or road dedicated to the public without prior written permission of the Stephens County Commissioner's Court. If such obstruction or landscaping is proposed with the right of way, the owners shall create a body (municipal utility district, home owner's association, neighborhood association, etc.), that will be responsible for the maintenance and liability of the landscaping, obstruction, and/or irrigation system. Such body shall have assessment authority to insure the proper funding for maintenance. Stephens County shall not be responsible for any maintenance or repair of any such landscaping, obstruction, and/or irrigation system.

## Chapter 3

### Plat Approval

#### 3.1 Application for Plat Approval

(a) Owner representation. An application for approval of a plat shall be filed with the county by the record owner of the property to be subdivided or the duly authorized agent of the record owner.

(b) Standards. Every plat creating two or more lots shall comply with all rules of Stephens County Subdivision Regulations, unless exempt by state law, or this regulation, in which case, the application shall identify the exemption relied upon and attach sufficient documentation to support such claimed exemption.

(c) Each plat required by this subdivision regulation shall identify and detail compliance with required drainage to address a 100-year flood, provide a statement of compliance with street construction standards, and state the dimensions of the subdivision and of 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.

#### 3.2 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 a residential subdivision.

A detailed cost estimate per lot acceptable to the county shall be provided for those unconstructed water supply and distribution facilities and wastewater collection and treatment facilities which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under §364.54 of the Texas Health and Safety Code, the schedule shall include the start dates and completion dates.

#### 3.3 Potable 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 he subdivider and the retail public utility referenced in §364.32(a)(1) of the Texas Health and Safety Code. Before final plat approval, description of means and methods 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 Commissioner's Court and the county health department.

If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §230.1 through 230.11 for water availability for a public water supply system 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, description of means and methods and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§230.1 through 230.11 for water availability for a public water supply system 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 a wholesale water supply agreement, which will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(c) **Non-public Water Systems.** Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with §364.32 of the Texas Health and Safety Code. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to §364.32(b), supra, 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, and 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 Sections 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.

Where each lot in a proposed subdivision is to be served by a private water supply, the plat shall bear the following notation in bold, 14-point type:

**“Stephens County, Texas makes no representation that adequate water suitable for human consumption will be available within this subdivision.”**

### **3.4 Organized sewage 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 and referenced in §364.33(a)(2) of this title. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the commission and description of means and methods 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 sewage 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 description of means and methods and specifications for the proposed sewage facilities shall have been approved by all entities having jurisdiction over the proposed project.

(c) **On-site sewage facilities.** Where private on-site sewage 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.

Where each lot in a proposed subdivision is to be served by a private OSSF sewage facility, the plat shall bear the following notation in bold, 14-point type:

**“Stephens County, Texas makes no representation that adequate sewage facilities will be legally feasible within this subdivision.”**

## **Chapter 4**

### **PLAT REQUIREMENTS**

#### **4.1 Preliminary Plats**

- (a) The submission of a Preliminary Plat is necessary to:
  - (1) eliminate the duplication of Subdivision names and street names;
  - (2) assure proper alignments of streets and drainage facilities;
  - (3) assure that the provisions of any applicable flood plain regulations will be complied with, and that no lot will have a drainage problem;
  - (4) assure that the provisions of any applicable sewage regulations will be applied for;
  - (5) assure that all necessary permits or plan approvals have or will be applied for.
- (b) Two (2) “blue line copies” or “reproductions” of the Preliminary Plat shall be submitted prior to or concurrent with the submission of any Preliminary Plat to a city exercising its extraterritorial authority. In the event the Subdivision falls within the jurisdiction of both Stephens County and the municipality, the more stringent of the regulations shall prevail.
- (c) Preliminary Plats shall be approved by the Stephens County Commissioner’s Court before a Final Plat can be submitted. No Preliminary Plat will be approved by Stephens County Commissioner’s Court prior to approval of the plat by a municipality exercising its extraterritorial authority.
- (d) Preliminary Plats shall be drawn on a 24” x 36” sheet at a scale of 1” = 200’ except in those instances where a municipality exercising its extraterritorial authority requires a different sheet size and/or scale, or upon prior approval of the Stephens County Commissioner’s Court.
- (e) Preliminary Plats shall show, or be accompanied by the following information:
  - (1) the name, address, and telephone number of the Developer, Surveyor and/or Engineer;
  - (2) the proposed name of the Subdivision, and the names, locations, width and dimensions of all proposed and existing streets within the Subdivision;
  - (3) the location of the existing boundary lines in sufficient detail to accurately locate the Subdivision;
  - (4) the description, location, width, and dimensions of proposed and existing utility and pipeline easements within and adjacent to the Subdivision;



(5) the name, location, and dimensions of all adjacent Subdivisions and street, roads or highways. Where there are no adjacent Subdivisions, the Preliminary Plat shall show:

(i) the name of all adjacent property owners with the volume and page of duly recorded documentation showing such ownership;

(ii) the location and distance to the nearest Subdivision, and how the street, roads, or highways in the proposed Subdivision may connect with those in the nearest Subdivision or other roads in the area.

(6) existing and proposed contour lines at the following intervals:

(i) when the land has less than a five percent (5.0%) slope, the contour interval shall not be greater than two feet (2'), and

(ii) when the land interval has more than a five percent (5.0%) slope, the contour interval shall not be greater than five feet (5').

(7) the exact location, dimensions, description and flow line of all existing and proposed drainage structures;

(8) the location of the 2100-year flood plain and all lots, or any part of a lot, that lies within the 100-year flood plain;

(i) the existing drainage areas upstream of the proposed Subdivision, along with the drainage calculations of the amount of water coming into, across, and leaving the Subdivision in sufficient detail to show any changes in the 100-year floor elevation across the proposed Subdivision, and on the property both upstream and downstream from the proposed Subdivision;

(9) the date the plat was prepared;

(10) a north arrow and the scale of the plat;

(11) a location or vicinity map showing the location of the proposed Subdivision within Stephens County, Texas, and to the nearest incorporated areas with a north arrow and scale of the vicinity map.

(12) preliminary water and sewer plans, if applicable

(13) execution of a Takings Impact Assessment (TIA). Waiver (A signed waiver of the T.I.A. or County will complete the T.I.A.)

(f) All information listed in item "5" above is considered to be the minimum amount of information needed to assure compliance with this Court order. Any deviations from items "1" through "5" shall have the written approval of the Stephens County Commissioner's Court prior to submittal of the Preliminary Plat.

(g) If the proposed Subdivision is a portion of a tract which is later to be subdivided in its entirety, then a tentative master plan of the entire Subdivision shall be submitted with the Preliminary Plat of the portion first to be subdivided.

(h) The Stephens County Commissioner's Court will review the Preliminary Plat and:

(1) send written comments to the Developer stating the conditions of approval, if any, if the Subdivision is outside the extraterritorial authority of a municipality;

(2) send written comments to the municipality and Developer stating conditions of approval, if any, if the Subdivision is in the extraterritorial authority of a municipality.

(i) Approval of the Preliminary Plat does not constitute acceptance of the Subdivision, but is merely an authorization to proceed with the preparation of the final plat for record. The approval of the Preliminary Plat will remain in effect for one (1) year.

(j) If approved, the following certificate shall be placed on the Preliminary Plat:

"The Commissioner's Court of Stephens County, Texas, on the date set forth below voted affirmatively to recommend conditional approval of this Preliminary Plat, subject to conditions enumerated in the minutes of the Stephens County Commissioner's Court this date".

"Passed and approved by the Stephens County Commissioner's Court on the 14<sup>th</sup> day of December, 2021."



  
Stephens County Judge

  
Stephens County Commissioner  
Precinct 3

\_\_\_\_\_  
Stephens County Commissioner  
Precinct 1

  
Stephens County Commissioner  
Precinct 4

  
Stephens County Commissioner,  
Precinct 2

  
ATTEST  
  
Stephens County Clerk

#### 4.2 Final Plat Survey

4.2.1 A property survey plat shall be submitted with the plat application, which shall contain, at a minimum, the following information on the face of the plat or attached to the plat by referenced Exhibits or Addendum:

(a) Names and addresses of the current owner/subdivider/developers of the subdivision property, including Official Public Records volume and page references;

- (b) Name and address of the proposed owner/subdivider/developer;
- (c) Name of proposed subdivision, said name shall not conflict in spelling, pronunciation, or in any way with the name of any other subdivision within Stephens County, Texas, unless the proposed subdivision is contiguous to an existing subdivision and is an additional phase of that development;
- (d) North directional indication arrow;
- (e) Vicinity or Location map showing the proposed subdivision in relation to major roads, towns, cities, and topographic features;
- (f) Official Public Records volume and page reference and names of all current owner/subdivider/developers of contiguous property surrounding the proposed subdivision;
- (g) Land use of all contiguous tracts, *i.e., undeveloped, subdivided, etc.*;
- (h) Total acreage within the proposed subdivision;
- (i) Total number of lots;
- (j) Total area within road rights-of-way and length of roads;
- (k) The location of all existing permanent, man-made structures within the proposed subdivision, including house, barns, shacks, other buildings, walls, wells, ponds and stock tanks. The plat shall duly acknowledge existing public roads and contain a dedication of any new roads or street right-of-ways, alleys, easements, etc. to be constructed by the owner or proprietors of the land or by some duly authorized agent of said owners or proprietors in the manner required for such acknowledgment by law to set aside such items, structures, roads, streets or easements to public use, or the use of purchasers of lots in the proposed subdivision. The survey shall identify all major topographic features on or adjacent to the property as well as elevation contours at no greater than five foot intervals if in a floodplain, and no greater than twenty foot intervals if not in a floodplain. Areas of Special Flood Hazard as shown by a current Flood Hazard Boundary Map as authorized by FEMA;
- (l) A comprehensive Flood Plain and Drainage assessment including a 100-year floodplain map and a complete assessment as required by the Texas Commission on Environmental Quality and all applicable state statutes;
- (m) Typical lot dimensions;
- (n) Street right-of-way widths;
- (o) Names of roadways, said names shall not duplicate any other streets within Stephens County, Texas, unless they are extensions of said streets, and comply with requirements of 9-1-1 addressing regulations;
- (p) Areas proposed for recreational use, *i.e., courses, parks, greenbelts, etc.*;
- (q) Transfer of rights-of-way or easements, including any alleys and/or utility easements;
- (r) Proposed land use of all lots being subdivided;

(s) Plat notation in not less than 14-point type that streets within the subdivision may not be accepted into the county maintenance inventory and are the responsibility of the owner/subdivider/developer or Home Owners Association. Streets will only be considered for acceptance into the County maintenance system in conformity with these regulations (see Section 6.2). Such plat notation shall substantially comply with this suggested language:

**“Approval of a plat by the Stephens County Commissioner’s Court shall not be deemed to suggest that Stephens County will eventually accept subdivision streets and roads for public maintenance. Street and road maintenance shall be the responsibility of the owner/subdivider/developer or a Home Owners Association.”**

(t) Location of all wells, water, oil, and natural gas, where applicable, and a statement that all unused wells are capped or plugged;

(u) The following statements shall be noted on the face of the final plat:

(1) “Blocking the flow of water or construction improvements in drainage easements, and filling or obstruction improvements is prohibited”;

(2) “The existing creeks, streams, or drainage channels traversing along or across the addition will remain as open channels and will be maintained by the individual owners of the lots or lots that are traversed by or adjacent to the drainage courses along or across said lots.”

(3) “Stephens County, Texas, will not be responsible for the maintenance and operation of said drainage ways for the control of erosion.”

(4) “Stephens County, Texas, will not be responsible for any damage, personal injury or loss of life or property occasioned by flooding or flooding conditions.”

4.2.2 In addition to the requirements for Preliminary Plats, Final Plats shall show or be accompanied by the following information:

(a) the name of the Subdivision, the names of the streets, roads and highways, the date that the plat was prepared, a north arrow and a graphic scale;

(b) sufficient data to reproduce, on the ground, the bearing and length of all, streets, roads, highways, blocks, lots, and easements. Curves on streets, roads, highways, blocks, and easements shall include the radius, length, and central angle of the curve. Curves on lots shall show the radius and length of the curve;

(c) the accurate location of adjacent Subdivision streets, roads, lots and easements, or the property owner if the adjacent land is undeveloped;

(d) the number of all ;lots and blocks arranged in a systematic order, and clearly shown on the plat in distinct and legible figures;

(e) the 100-year flood plain as identified on the most current Stephens County Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency (FEMA);

(f) a legal description of the Subdivision located with respect to an original corner of the original survey of which it is a part, and the number of acres being subdivided. All blocks, corners, and angles shall be marked in accordance with minimum standards set forth by the Texas Board of Professional Land Surveyors. All corners shall be marked with caps stamped with the surveyor and/or company name;

(g) a dedication, by the Developer, of all streets, roads, alleys, easements, parks, conservation easements, and other land intended for public use, and the Developer's certification that all parties with any interest in the title to the subject property have joined in such dedication, duly executed, acknowledged and sworn to by the Developer before a Notary Public in the following format:

**"THE STATE OF TEXAS**

**COUNTY OF STEPHENS**

**Owners Acknowledgement and Dedication**

I (we), the undersigned, owner(s) of the land shown on this plat within the area described by metes and bounds as follows:

*(Metes and Bounds Description of Boundary)*

And designated herein as the *(Name of Subdivision)* to Stephens County, Texas, and whose name is subscribed hereto, hereby Dedicate to the use of the public forever all streets, roads, alleys parks, water courses, drains, easements, rights-of-way and public places thereon shown for the purpose and consideration therein expressed.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date"

(h) the following statement shall appear on any plat containing private streets, roads, drives, emergency access easements, recreation areas, and open spaces:

NOTE: All private streets, roads, and drives will be designated in a manner that indicates their private status.

**"STEPHENS COUNTY, TEXAS, SHALL NOT BE RESPONSIBLE FOR MAINTENANCE OF PRIVATE STREETS, ROADS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS, AND OPEN SPACES; AND THE OWNERS SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF PRIVATE STREETS, ROADS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS, AND OPEN SPACES, AND THE OWNERS AGREE TO INDEMNIFY AND SAVE HARMLESS STEPHENS COUNTY, TEXAS, FROM ALL CLAIMS, DAMAGES, AND LOSSES ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE OBLIGATION OF THE OWNERS SET FORTH IN THIS PARAGRAPH. BEFORE ANY SUCH ROADWAY WILL BE MAINTAINED BY STEPHENS COUNTY, TEXAS, IT MUST BE DEDICATED (WITH ALL REQUIRED RIGHT OF WAY) BY ITS OWNERS AND MUST BE ACCEPTED FOR MAINTENANCE BY FORMAL, WRITTEN ACTION OF THE STEPHENS COUNTY, COMMISSIONER'S COURT.**

**APPROVAL OF A PLAT DOES NOT CONSTITUTE AN AGREEMENT FOR MAINTENANCE OF ROADWAYS APPEARING ON THE PLAT."**

(i) the seal and signature of the surveyor responsible for surveying the Subdivision and/or the preparation of the plat in the following format:

"Certification by a Registered Professional Land Surveyor means that plat represents a survey made by the surveyor and that all the monuments shown thereon actually exist, and that their location, size, and material description are correctly shown.

**"THE STATE OF TEXAS**

**COUNTY OF STEPHENS**

**Certification of Surveyor**

**I, the undersigned, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this plat is true and correct and as prepared from an actual survey of the property made under my supervision on the ground.**

**(Surveyor's Seal)**

\_\_\_\_\_  
**(Surveyor's Name)**

**Registered Professional Land Surveyor**

\_\_\_\_\_  
**Date"**

(j) a space for the approval of the Stephens County Commissioner's Court in the following format:

**"The Stephens County Commissioner's Court, on the date set forth below voted affirmatively to adopt this plat and approve it for filing of record.**

**Adopted and approved by the Stephens County Commissioner's Court on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.**

\_\_\_\_\_  
**Stephens County Judge**

\_\_\_\_\_  
**Stephens County Commissioner  
Precinct 3**

\_\_\_\_\_  
**Stephens County Commissioner  
Precinct 1**

\_\_\_\_\_  
**Stephens County Commissioner  
Precinct 4**

\_\_\_\_\_  
**Stephens County Commissioner,  
Precinct 2**

**ATTEST:**

\_\_\_\_\_  
**Stephens County Clerk"**

k) a space for the approval of a municipality exercising its extraterritorial authority.

4.2.3 All information listed in item 4.2.2 above is considered to be the minimum amount of information needed to assure compliance with this Court Order. Any deviation must have the approval of the Stephens County Commissioner's Court prior to submittal of the Final Plat.

4.2.4 The Stephens County Commissioner's Court will review the Final Plat for its conformance, and place the Subdivision on the Stephens County Commissioner's Court Agenda and recommend either approval or denial.

4.2.5 The final Plat shall be accompanied by:

- (a) a surety bond for construction of streets or roads;
- (b) a statement of approval of plans from all conservation districts, municipality utility districts or drainage districts;
- (c) a certificate from the Stephens County Tax Collector/Assessor stating all taxes are paid and not delinquent;
- (d) a certificate stating the subdivision's water supply and sewage system plans have approval from the appropriate State agency or designated authority;
- (e) two (2) sets of construction plans.

4.2.6 After the Final Plat has been approved and signed by the Stephens County Commissioner's Court, the Final Plat will be returned to the Developer for recording with the Stephens County Clerk. The Final Plat must be recorded within six (6) months of approval by the Stephens County Commissioner's Court. A single six (6) month extension may be granted by the Stephens County Commissioner's Court.

4.2.7 The Final Plat shall contain the following statement under the County's signature block:

**"Construction not completed within two (2) years of the recording date shall be subject to current County standards and regulations. The County may require the Subdivision be re-platted."**

4.2.8 The Stephens County Commissioner's Court may refuse to approve a plat if it does not meet the requirements prescribed by these rules or if any bond required under these rules is not filed with the County.

#### **4.2.9 Plat Application Fees**

Prior to the construction and/or the approval of any plat submitted to the Stephens County Commissioner's Court all applicable fees shall be paid by the Developer to the Stephens County Treasurer and a receipt shall be included with the submittal. The following fees have been established by the Stephens County Commissioner's Court to defray costs associated with but not limited to the review, inspection, maintenance and filing of all plats and documents associated with the development of a Subdivision or any part thereof.

These fees shall become effective with the passage of this Court order and will effect all Subdivisions not finally approved by the Stephens County Commissioner's Court prior to such passage.

a)	Preliminary Plat	\$ 400.00
b)	Final Plat (with roads) 10 lots or less add \$50.00 per lot in excess of 10 lots	\$1,000.00
c)	Final Plat (with no roads)	\$ 300.00
d)	Plat Revision	\$ 300.00
e)	Plat Revision Notices (per notice fee)	\$ 5.00
f)	Plat Cancellation	\$ 200.00

#### **4.3 Registered Professional**

The plat shall be prepared from an actual survey made on the ground by or under the direct supervision of a Registered Professional Land Surveyor and his/her certificate to that effect must appear on said plat. Plat shall show Land Surveying Firm's name and license number, address and telephone number.

The plat shall be reviewed and sealed by a Professional Engineer, with the P.E.'s firm name, address and telephone number, and professional license number.

#### **4.4 Plat Scale and Filing**

The plat shall be based on a scale of not more than one inch equals two hundred feet. The plat shall be drawn on paper measuring no less than eleven inches by seventeen inches and no longer than twenty four inches by thirty six inches. If two or more pages are needed, a key (may be drawn to larger scale) showing the entire area shall be drawn on the first page. Each page shall be numbered in a way as to note its location within the set.

Two full size copies of the plat shall be presented for filing, one shall be on Mylar or vellum paper in black ink for filing within the Stephens County Clerks' records, and the other shall be on bond paper in black ink for use by the Stephens County Appraisal District's mapping department. There shall also be six reduced size (not to scale) copies of the final plat submitted for exhibits to be used in Stephens County Commissioner's Court. A digital map file will be provided to the Stephens County Appraisal District.

#### **4.5 Additional Plat information**

The plat shall provide detailed information on the width of the existing streets, lots and alleys, adjacent property owner's name, adjacent owner's deed filing information and similar details regarding all property immediately adjacent to the platted property. The names of the proposed subdivision and any of the physical features shall not be so similar in spelling or pronunciation to the name of any existing subdivision in Stephens County, Texas, as to cause confusion. Lot and Block numbers are to be arranged in systematic order and shown on the plat in distinct and legible manner.



All lot lines shall be defined by bearing and distance. All lots shall show lot acreage. All lots shall have a minimum building setback line of 25 feet along any public road right-of-way or 50 feet along any major road as designated by the Commissioner's Court. All utility easements shall be shown within the appropriate set-back lines.

## **Chapter 5**

### **Construction Plans**

All construction plans, drawings, and calculations shall be sealed by a Registered Professional Engineer licensed to practice in the State of Texas.

1. Two (2) sets of all construction plans must be submitted to and approved by the Stephens County Commissioner's Court, unless a waiver is granted in writing prior to the start of the any construction. The construction plans shall consist of:

- (a) street and road plans;
- (b) drainage plans, including outfall channels, storm sewers and inlets design;
- (c) plans for water system, if any;
- (d) plans for sewage treatment and sewer system, if applicable;
- (e) plans for adjustment of utility lines and pipelines;
- (f) location and description of all easements;

2. Street and Road Construction plans shall show:

- (a) the plan of the street, in no larger than 1" = 50' scale, showing the location of the proposed surface, ditches and drainage structures within the street or road right-of-way;
- (b) the profile of the street or road in no larger than a 1" = 50' scale horizontal and a 1" = 5' scale vertical;
- (c) the street or road grades and elevations;
- (d) vertical and horizontal curve information;
- (e) the ditch grades, design flow of water, design depth of water and design velocity of water.
- (f) typical street or road sections;
- (g) the seal and signature of the engineer responsible for the design on all sheets.

3. Drainage construction plans shall show:

- (a) the plan of the drainage ditches in no larger than a 1" = 50' scale;
- (b) the profile of the drainage ditches in no larger than a 1" = 50' scale horizontal and a 1" = 5' scale vertical;
- (c) the ditch grades, design flow of water, design depth of water and design velocity of water;

(d) a plan and profile of all culverts under any street or road with design flow of water, head-water and tail-water depths and the tail-water velocity;

(e) the size of all driveway culverts to carry the design flow of water at each lot in the Subdivision when the culvert is installed at the designed ditch grade;

(f) Typical ditch sections;

(g) the seal and signature of the engineer responsible for the design on all sheets;

(h) the size of each lot shall be indicated on the final plan in square feet and in acres.

4. Water construction plans shall show:

(a) the location and size of all proposed water lines in relation to the right-of-way or easements in which the lines are to be located;

(b) the location of all appurtenances proposed to be installed;

(c) the minimum depth to which the water lines are to be installed;

(d) the seal and signature of the engineer responsible for the design on all sheets;

5. Sewer construction plans shall show:

(a) the plan of the sewer line in no larger than 1" = 50' scale, showing the location and the size of all proposed sewer lines in relation to the right-of-way or easements in which the lines are to be located;

(b) the profile of the sewer line in no larger than a 1" = 50' scale horizontal, and a 1" = 5' scale vertical;

(c) the location of all appurtenances proposed to be installed;

(d) the sewer line grades and elevations at all junction points;

(e) the seal and signature of the engineer responsible for the design on all sheets.

(6) All construction plans shall be submitted with the Final Plat.

(7) The County will review the construction plans for their conformance, and return one (1) set of the construction plans to the Developer stating:

(a) that the plans have been approved, or

(b) the changes that will need to be made before the plans will be approved.

(8) If any changes are required, the Developer shall have the necessary changes made and submit two (2) copies of the corrected plans to the Stephens County Commissioner's Court. If all necessary changes have been made, the County will return one (1) set of corrected plans to the Developer stating that the plans have been approved.

(9) Water and Septic Requirements Plans

(a) The Developer must submit a plan for providing utility service within the proposed Subdivision. The proposed water supply should be clearly indicated, i.e. municipal water, rural water supply corporation, privately owned water system, individual well, etc..., including location of fire hydrants, if any. All water supplies must be approved by the TCEQ.

(b) A Developer who proposes the development of an organized wastewater collection and treatment system must obtain a permit to dispose of waste in accordance with the applicable provisions of the Texas Administrative Code and obtain approval of engineering planning materials for such systems in accordance with the applicable provisions of the Texas Administrative Code or other applicable state law.

(c) Developers who proposed to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement with the authorized agent of the owner of the existing permitted facility.

(d) Developers who propose to utilize on-site sewage disposal shall comply with all On-Site Sewage Regulations of Stephens County, Texas, and the State of Texas.

(10) In addition to the unsatisfactory on-site disposal systems listed in the applicable provisions of the Texas Administrative Code and other state law, pit privies and portable toilets are not acceptable waste disposal systems for a Subdivision.

(11) 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 for provision of water, except on an emergency basis. Absence of a water system meeting these standards of these rules due to the negligence of the Developer does not constitute an emergency.

(12) The plan for sewage disposal should be clearly indicated, i.e., municipal sewer service, privately owned/organized sewage disposal system, private sewage facilities, etc. If it is the developer's intent that each lot purchaser shall provide private sewage facilities, those facilities must meet the requirements of Stephens County's OSSF regulations.

## Chapter 6

### Financial Guarantees for Improvement

1. Applicability. If an adequate public or non-public water system or sewage 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 Commissioner's Court shall require the owner of the subdivided tract to execute an agreement with the county 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.

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 Commissioner's 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 Commissioner's Court. The county shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:

(i) Registration with the Secretary of State and be authorized to do business in Texas;

(ii) Authorization to issue bonds in the amount required by the Commissioner's Court; and

(iii) 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 this subchapter and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the Commissioner's Court.

3. Letter of credit. A letter of credit that is submitted in compliance with subsection of this section shall meet the following requirements:

(a) Any letter of credit submitted as a financial guarantee for combined amounts greater than \$10,000 and less than \$250,000 must be from financial institutions which meet the following qualifications:

(1) Bank qualifications:

(i) Must be federally insured;

(ii) Sheshunoff rating must be 10 or better and primary capital must be at least 6.0% of total assets; and

(iii) Total assets must be at least \$25 million.

(2) Savings and loan association qualifications:

(i) Must be federally insured;

(ii) Tangible capital must be at least 1.5% of total assets and total assets must be greater than \$25 million or tangible capital must be at least 3.0% of total assets if total assets are less than \$25 million; and

(iii) Sheshunoff rating must be 30 or better.

(3) Other financial institutions qualifications:

(i) The letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and

(ii) The investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.

(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:

(1) Bank qualifications:

(i) Must be federally insured;

(ii) Sheshunoff rating must be thirty or better and primary capital must be at least 7.0% of total assets; and

(iii) Total assets must be at least \$75 million.

(2) Savings and loan association qualifications:

(i) Must be federally insured;

(ii) Tangible capital must be at least 3.0% of total assets and total assets must be greater than \$75 million, or tangible capital must be at least 5.0% of total assets if total assets are less than \$75 million; and

(iii) Sheshunoff rating must be 30 or better

(3) Other financial institutions qualifications:

(i) The letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a county investment; and

(ii) The investment instrument must be registered in the county's name and the county must receive safekeeping receipts for all collateral before the letter of credit is accepted.

(c) The letter of credit shall list as sole beneficiary the Stephens County Judge, in his official capacity, or the county judge's successor in office, and must be approved by the Stephens County Judge.

(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 this subchapter and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the Commissioner's Court.

4. Financial Guarantee. The county will determine the amount of the bond, letter of credit, or cash deposit required to ensure the 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; and
- (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, that 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.

## **Chapter 7**

### **Bonding Procedures**

#### **7.1 Bonding Requirements**

##### **7.1.1 Security/Construction Bond:**

- (a) All construction shall be complete within 2 years after approval of final plat in a timely manner, and in accordance with the terms and specifications contained in this Court Order, the owner/subdivider/developer shall file a Construction Bond, executed by a Surety Company authorized to do business in this state, and made payable to the County Judge of Stephens County, Texas, or his successor in office; and shall be conditioned that the owner or owners of any such tract of land to be subdivided will construct all streets and roads within said subdivision in accordance with these regulations; and said bond shall be presented for approval to the Commissioner's Court upon presentation of the subdivision plat and along with description of means and methods for final authorization and approval.
- (b) The bond amount shall be equal to 100% of the estimated cost of construction of roads, streets, street signs, underground utilities, required drainage structure and all other construction.
- (c) The construction bond shall remain in full force and in effect until all the roads, streets, street signs, underground utilities, required drainage structures and all other construction in the subdivision have been completed to the satisfaction of the County Engineer, and the construction bond has been released by a Court Order from the Commissioner's Court.

(d) In the event any or all of the streets, roads, drainage and drainage structures, as constructed by the owner/subdivider/developer, fail to meet the requirements of the foregoing specifications, and the said deficiencies are put in writing by the County Engineer, the unfinished improvements shall be completed at the cost and expense of obligees as provided.

(e) The plat shall not be approved or recorded unless the owner/subdivider/developer has filed with the Commissioner's Court a cash bond or other surety executed by a surety company holding a license to do business in the State of Texas, made payable to the County Judge of Stephens County, Texas, or his successor in office, and acceptable to the County, in an amount equal to the cost of the roads and drainage improvements, or other improvements where applicable, including but not limited to water and wastewater facilities, required by these regulations as estimated by the Design Engineer and approved by the County, conditioned that the owner/subdivider/developer will complete such improvements within 2 years after approval of such plat, such bond to be approved by the County Commissioner's Court.

(f) Should there be any deficiency or variance from the requirements herein or should the work not be completed within the stated time, the County will notify the owner/subdivider/developer of such departure by certified mail. Should the condition not be corrected within 30 days following receipt of notice, the County may declare the bond or surety forfeited and order construction operations suspended. The County reserves the right to complete the work by means most advantageous to its organization and citizens, utilizing such portion of the bond or surety as may be necessary to accomplish such completion. In the event progress and final inspections indicate no departure from the requirements herein, the designated representative of the County will certify completion in accordance with the requirements of the Commissioner's Court and the Court will consider release of the surety. The surety bond shall remain in effect until all roads, drainage improvements and other applicable improvements have been approved by the Commissioner's Court, and the bond has been released by Order of the Commissioner's Court.

(g) When construction of all streets, roads and drainage infrastructure in said subdivision is completed in accordance with these regulations, the owner or owners shall give written notice of completion to the Commissioner's Court and request a hearing for the purposes of certifying same. Following receipt of the notice of completion and request for hearing, the Commissioner's Court shall make an inspection of the subdivision and conduct a hearing and, thereafter, consider an order granting certification that the streets and roads in said subdivision have been constructed in accordance with these regulations.

In the event that the Commissioner's Court then determines that the construction of streets in the subdivision was not completed in accordance with these regulations, the Commissioner's Court shall consider an order denying certification and causing the performance bond to be forfeited in favor of Stephens County, Texas.

**(h) It is the responsibility of the owner/subdivider/developer to advise the County Commissioner's Court of the status of construction prior to expiration of the 2 year construction period as is stated above.**

**7.1.2 Maintenance Bond:**

**(a) To insure roads, streets, street signs, underground utilities, required drainage structures and all other construction are maintained to the satisfaction of the County Engineer, a maintenance bond executed by a Surety Company authorized to do business in this state, and made payable to the County Judge of Stephens County, Texas, or his successor in office, shall be substituted for the construction bond at the time of release of said construction bond; and shall be conditioned that the owner or owners of any such tract of land to be subdivided will construct all streets and roads within said subdivision in accordance with these regulations; and shall be presented for approval to the Commissioner's Court upon presentation of a certificate of completion of all subdivision infrastructure and request for release of the performance bond to the Commissioner's Court.**

**(b) The maintenance bond amount shall be equal to 100% of the estimated cost of roads, streets, streets signs, underground utilities, required drainage structures and all other construction.**

**(c) The conditions of the maintenance bond shall be that the owner/subdivider/developer shall guarantee to maintain, to the satisfaction of Stephens County, Texas, all of the streets, roads, drainage structures and drainage ditches and channels which have been constructed to specification with construction security released by Court Order from Commissioner's Court, in a good state of repair for a period of 2 years from the date of official release of construction security.**

**(d) Periodical inspection of roads, streets, street signs, underground utilities, required drainage structures and all other construction for which maintenance security is held, will be made by the County Engineer during the period of liability covered by the maintenance bond. In the event any or all of the roads, streets, street signs, underground utilities, required drainage structures and all other construction are not being maintained in a good state of repair, the owner/subdivider/developer will be so advised in writing and, if after a reasonable time, he fails or refuses to repair said items, they shall be maintained at the cost and expense of obligees as in said orders provided.**

**(e) The release of any bond shall be by order of the Commissioner's Court. To request a release, the owner/subdivider/developer who posted the bond in question shall present a written request to release said bond. The request shall contain a statement by the engineer responsible for the design of said work stating that he has made an inspection of such improvements and recommends their acceptance by the County.**

**Attached to the letter shall be one set of "as built" drawings showing the work to be accepted for use by the County. The written request of bond release shall be received by Stephens County, Texas, at least 14 days prior to the next regularly scheduled meeting of Commissioner's Court.**



**Stephens County, Texas shall not repair, maintain, install, or provide any streets or roads in any subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full, nor shall Stephens County, Texas repair, maintain, or install any streets or roads until such time as the roads or streets have been formally accepted for inclusion into the County maintenance inventory by an order separate and apart from approval of any plat for filing purposes only by the Commissioner's Court. Approval of the subdivision plat for filing does not indicate any agreement or understanding that Stephens County, Texas will assume responsibility for maintenance of roads, streets, alleys or other areas dedicated to public use on the plat.**

The Commissioner's Court shall not in any case accept such roads and improvements on behalf of the County for a period of at least 2 years after such proper completion, and not then unless and until the Commissioner in whose precinct the proposed subdivision is located certifies that they have been maintained in good condition for said period of 2 years and are in good condition at such time. The County shall reserve the right to reject or accept such roads and drainage improvements only upon motion duly passed at a regular or legally called special meeting of the Commissioner's Court, and the owner/subdivider/developer shall remain responsible for the maintenance of such improvements until legally accepted for county maintenance by separate order by the County. Maintenance of roads shall include such items as drainage by others, spilled concrete, mud and debris on roads, damage from unknown springs, pumping, unraveling, etc. Maintenance of the drainage improvements shall include removing debris; re-sodding eroded areas and the installation of additional concrete riprap where designated by the County to permanently prevent erosion.

#### **7.2 Bond Extension**

Where good cause exists, the County may extend the period of time for completion for an additional period of time not to exceed 6 months if the owner/subdivider/developer has not completed the required improvements or completed such improvements in compliance with these regulations. No such extension shall be granted unless the owner/subdivider/developer provides additional security to cover the extended period of time.

#### **7.3 Irrevocable Letter of Credit (in lieu of Bond)**

An irrevocable Letter of Credit may be submitted in lieu of bonds for the purpose of insuring an owner/subdivider/developer's obligation to construct and maintain the roads, drainage improvements and other applicable improvements in a subdivision.

Irrevocable Letters of Credit In Lieu of Bonds are required under the same conditions as Security and Maintenance Bonds.

#### **7.4 Other Security**

Any type of security for construction and maintenance other than Bonds and Irrevocable Letter of Credit shall be by written request to Stephens County, Texas, and must first be approved by Commissioner's Court.

## **Chapter 8**

### **Review and Approval of Final Plat**

#### **8.1 Scope of Review**

(a) The Commissioner's Court of a county or a person designated by the Commissioner's Court shall issue a written list of the documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized under this section or other applicable law. An application submitted to the Commissioner's Court or the person designated by the Commissioner's Court that contains the documents and other information on the list is considered complete.

(b) If a person submits a plat application to the Commissioner's Court that does not include all of the documentation or other information required by Subsection (a), the Commissioner's Court or the court's designee shall, not later than the 10<sup>th</sup> business day after the date the Commissioner's Court receives the application, notify the applicant of the missing documents or other information. The Commissioner's Court shall allow an applicant to timely submit the missing documents or other information.

(c) An application is considered complete when all documentation or other information required by Subsection (a) is received. Acceptance by the Commissioner's Court or the court's designee of a completed plat application with the documentation or other information required by Subsection (a) shall not be construed as approval of the documentation or other information.

(d) Except as provided by Subsection (f), the Commissioner's Court or the court's designee shall approve with conditions, or disapprove a plat application not later than the 30<sup>th</sup> day after the date the completed application is received by the Commissioner's Court or the court's designee. An application is approved by the Commissioner's Court or the court's designee unless the application is disapproved within that period and in accordance with Section 232.0026 Texas Local Government Code.

(e) Notwithstanding Subsection (d), if a groundwater availability certification is required under Section 232.0032 Texas Local Government Code, the 30-day period described by that subsection begins on the date the applicant submits the groundwater availability certification to the Commissioner's Court or the court's designee, as applicable.

(f) The 30-day period under Subsection (d):

(1) May be extended for a period not to exceed 30 days, if:

(i) Requested and agreed to in writing by the applicant and approved by the Commissioner's Court or the court's designee; or

(ii) Chapter 2007, Government Code, requires the county to perform a takings impact assessment in connection with the plat application; and

(2) Applies only to a decision wholly within the control of the Commissioner's Court or the Court's designee.

(g) The Commissioner's Court or the court's designee shall make the determination under Subsection (f)(1) of whether the 30-day period will be extended not later than the 20<sup>th</sup> day after the date a completed plat application is received by the Commissioner's Court or the court's designee.

(h) The Commissioner's Court or the court's designee may not require an applicant to waive the time limits or approval procedure contained in this section.

(i) If the Commissioner's Court or the court's designee fails to approve, approve with conditions, or disapprove a plat application as required by this section:

(1) The Commissioner's Court shall refund the greater of the unexpended portion of any application fee or deposit or 50% of an application fee or deposit that has been paid;

(2) The application is granted by operation of law; and

(3) The applicant may apply to the District Court in Stephens County, Texas, for a writ of mandamus to compel the Commissioner's Court to issue documents recognizing the plat application's approval.

### **8.2 Approval Procedure: Conditional Approval or Disapproval Requirements**

(a) A Commissioner's Court or designee that conditionally approves or disapproves of a plat application under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or the reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.

(b) Each condition or reason specified in the written statement:

(i) Must:

(A) Be directly related to the requirements of this subchapter; and

(B) Include a citation to the law, including a statute or order, that is the basis for the conditional approval or disapproval, if applicable; and

(ii) May not be arbitrary.

### **8.3 Approval Procedure: Applicant Response to Conditional Approval or Disapproval**

After the conditional approval or disapproval of a plat application under Section 232.0026 Texas Local Government Code, the applicant may submit to the Commissioner's Court or designee that conditionally approved or disapproved the application a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The Commissioner's Court or designee may not establish a deadline for an applicant to submit the response.

### **8.4 Approval Procedure: Approval or Disapproval of Response**

(a) A Commissioner's Court or designee that receives a response under section 232.0027 Texas Local Government Code shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat application not later than the 15<sup>th</sup> day after the date the response was submitted under section 232.0027 Texas Local Government Code.

(b) A Commissioner's Court or designee that conditionally approves or disapproves a plat application following the submission of a response under Section 232.0027 Texas Local Government Code:

(1) Must comply with Section 232.0026 Texas Local Government Code; and

(2) May disapprove the application only for a specific condition or reason provided to the applicant for the original application under Section 232.0026 Texas Local Government Code.

(c) A Commissioner's Court or designee that receives a response under Section 232.0027 Texas Local Government Code, shall approve a previously conditionally approved or disapproved plat application if the applicant's response adequately addresses each condition for the conditional approval or each reason for the disapproval.

(d) A previously conditionally approved or disapproved plat application is approved if:

(1) The applicant filed a response that meets the requirements of Subsection(c); and

(2) The Commissioner's Court or designee that received the response does not disapprove the application on or before the date required by Subsection (a) and in accordance with Section 232.0026 Texas Local Government Code.

### **8.5 Prerequisites to approval**

Plat approval shall not be granted unless the subdivider has accomplished the following:

(a) Dedicated the sites for the adequate water and sewage 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 sewage facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from the commission of the description of means and methods 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 sewage 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 sewage facilities with the bond or financial guarantee meeting the criteria established in Division 3 of this subchapter.

## Chapter 9

### Time Extensions for Providing Facilities

#### 9.1 Reasonableness

(a) The Commissioner's Court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if:

(1) Any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with §364.54 Texas Health and Safety Code are submitted which will be effective for the period of the extension; and

(2) The court finds the extension is reasonable and not contrary to the public interest.

#### 9.2 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.

#### 9.3 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 this subchapter.

## Chapter 10

### Criteria for Subdivisions that occurred prior to August 1, 2020 (hereinafter referred to as Pre-2020)

#### 10.1 Authority and Scope

(a) This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before August 1, 2020 and have not been previously platted or recorded. This section is in addition to the authority of the county to grant a delay or variance pursuant to Local Government Code §232.043 or a rule of the county adopted pursuant to such provision.

(b) Purpose. It is the purpose of this section to promote the public health of the county residents, to ensure that adequate water and sewage facilities are provided in subdivisions within the jurisdiction of this county, and to establish the minimum standard for any pre-2020 subdivisions for which no plat has been filed or recorded in the records of the county, and for which the owner or owners of lots within said pre-2020 subdivision wish to modify, expand, alter or otherwise change in any way the actual layout of the pre-2020 subdivision as the same exists upon the date of application for such modification, expansion, alteration or change in the pre-2020 subdivision.

(c) **Required Plat.** In the event that the owner of tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to August 1, 2020, wishes to modify, expand, alter or otherwise change the existing layout of the pre-2020 subdivision, including an addition to the pre-2020 subdivision, or to lay out additional or fewer 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 and was prior to 2020 legally obligated to, but failed to have a plat of the subdivision prepared, approved by the Commissioner's Court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the modification, expansion, alteration, or change prepared and approved by the Commissioner's Court as provided in this Section in lieu of the filing of a plat of the subdivision.

(d) **Special Criteria.** The Commissioner's 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 the Texas Health and Safety Code as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of these rules so that the public health, safety, and welfare may be secured and substantial justice done.

(1) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.

(2) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the chapter, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the Commissioner's Court may request to support the application, including:

(i) A copy of a dated plat, sales contract, utility record, or other acceptable documentation that the subdivision occurred prior to August 1, 2020;

(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.

(3) Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the Commissioner's Court that:

(i) The lot for which approval is requested is within a tract that was subdivided prior to August 1, 2020, 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

(A) The request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.

(e) Final Determination. The Commissioner's 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 Commissioner's Court, the county shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

## **Chapter 11**

### **Revision and Cancellation of Plats**

#### **11.1 Application for Plat Revision**

The owner of an existing lot or lots in a platted subdivision may submit an application to revise the portion of the existing plat affecting such lot(s), unless prohibited by restrictive covenants or plat notes filed pursuant to these subdivision Regulations, by submitting the following to the Commissioner's Court:

Three copies of the proposed revised plat, conforming in all respects to the requirements of these Regulations; or, if submitted by a private homeowner who is not a Developer in the subdivision, other materials acceptable to the Commissioner's Court clearly setting forth the desired amendment; a statement giving the reason(s) for the proposed revision; and a filing fee, as specified, which may be amended from time to time by the Commissioner's Court. (Texas Local Government Code 232.008 and 232.009 provide for procedures to revise or cancel previously recorded plats).

#### **11.2 Public Notice**

After the application submittal date, the County Clerk will post the re-subdivision for consideration by the Commissioner's Court. However, before any application is considered by the Court, the Applicant shall file proof that the Owner, at the Owner's (or Applicant's) expense, has delivered or published all notices required by the Texas Local Government Code, Section 232.009, including: A notarized publisher's affidavit demonstrating publication of the application in a newspaper of general circulation in the area affected by the subdivision, including a statement of the time and place at which the Commissioner's Court will meet to consider the application and hear protests, if any. As required by the Texas Local Government Code, Section 232.009, the notice shall be published 3 times during the period beginning on the 30<sup>th</sup> day and ending on the 7<sup>th</sup> day prior to date of Commissioner's Court meeting; and Delivery of notice of the application to all owners within the original subdivision by certified or registered mail, return receipt requested, at the owners' addresses in the subdivided tract. If all or part of the subdivided tract has been sold to non-developer owners, the owner shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owners' address in the subdivided tract. The Commissioner's Court is not required to give notice by mail under Subsection 12.2.1.2, *supra*, if the plat revision only combines existing tracts and the revision does not increase the number of lots in the subdivision.

### 11.3 Criteria for Approval

The Commissioner's Court may approve an application to revise a subdivision upon finding that:

The revision will not interfere with the established rights of any owner of a part of the subdivided land, or each owner whose rights may be interfered with has agreed to the revision; and the plat as revised conforms to the requirements of the Stephens County Subdivision Regulations.

### 11.4 Filing of Plat Revision

Following the approval of the Stephens County Commissioner's Court, the owner may file with the County Clerk a revised plat, or part of a plat, that indicates the changes made to the original plat.

### 11.5 Cancellation of Subdivision

A real property owner may apply to the Commissioner's Court for permission to cancel all or part of the subdivision. The application for cancellation shall show that the cancellation of all or part of the subdivision does not interfere with the established rights of any owner who owns any part of the subdivision or that the other owners agree to the cancellation. The Commissioner's Court shall authorize the owner to file the instrument canceling the subdivision in whole or in part. The instrument shall describe the subdivision or the part that is cancelled. Notice of an application for cancellation shall be published in a County newspaper one day each week for at least 4 consecutive weeks.

Notice shall 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. Any assessment of the property by the County Tax Assessor-Collector shall be done as specified in Section 232.008 of the Texas Local Government Code. The authorization of the cancellation by the Commissioner's Court shall be conducted as specified in Section 232.008 of the Texas Local Government Code.

## **Chapter 12**

### **Variance**

The Commissioner's Court may authorize a variance from these Subdivision Regulations when, in its opinion, undue hardship will result from requiring strict compliance. In approving a variance, the Commissioner's Court shall prescribe only conditions that it deems necessary or desirable to the public interest. Any person who wishes to receive a variance shall apply to the Commissioner's Court with a list of, and a detailed justification for each variance requested. The decision of the Commissioner's Court whether to grant or deny a variance is at its complete discretion and will be final.



## 12.1 Conditions of Variance

In approving a variance, the Commissioner's Court shall prescribe only conditions that it deems necessary or desirable to the public interest. In making their findings, the Commissioner's Court shall take in to account the nature of the proposed use of the land involved and existing uses of the proposed subdivision and the probable effect of such variances upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. No variance shall be granted unless the Commissioner's Court finds:

(a) That there are special circumstances or conditions affecting the land involved such that the strict application of this order would deprive the applicant of the reasonable use of his land, and,

(b) That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, and,

(c) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this order.

Such findings of the Commissioner's Court, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the meeting at which the variance is granted. Variances may be granted only when in harmony with the general purposes of intent of the Order so that the public health, safety, and welfare may be secured and substantial justice done. Pecuniary hardship to the owner/subdivider/developer, standing alone, shall not be deemed to constitute hardship. No variances shall be granted as to required improvements.

## **Chapter 13**

### **Flood Plains**

1. Subdivisions that are located in a Flood Plain as shown on the current Flood Insurance Rate Map (FIRM) for Stephens County, Texas, will have the following requirements:

(a) permanent type bench marks shall be set in appropriate locations with the descriptions and elevation shown on the plat. The elevation of the benchmark shall be tied to a bench mark shown on the FIRM panel;

(b) a note on the plat stating, "A flooding permit will be required fro Stephens County, Texas, for any construction in the Flood Plain.";

(c) all Subdivision proposals shall be consistent with Stephens County's Flood Plain regulations;

(d) contours at one foot (1') intervals shall be drawn on the plat;

(e) the finished floor elevation must be shown for each lot located in the Flood Plain;

(f) the Flood Plain area of each lot shall be subtracted from the overall lot size to determined minimum lot size;

(g) the provision of and maintenance of drainage for the purpose of flood damage reduction on individual private lots is not the responsibility of the County.

## **Chapter 13**

### **Mailbox Construction Standards**

13.1 Mailboxes shall be set a minimum of three feet (3') from the edge of the roadway driving surface or one foot (1') behind curbs. When placement of the mailbox outside the three foot (3') minimum is not possible, a mailbox of "breakaway design" shall be used by each owner.

13.2 All mailboxes within the County right-of-way shall meet the current TXDOT standards.

13.3 Mailboxes in Subdivisions must meet Post office requirements, and must be placed in a manner that does not interfere with the traffic's line of vision.

## **Chapter 14**

### **Culverts**

The culvert design shall be sized by a Registered Professional and a map or list containing the size of each pipe shall be attached to the plat. The Developer will be held responsible for notifying builders and lot owners of this requirement and ensuring the property sized culvert is installed. **Culvert installation and maintenance shall be the responsibility of the owner/subdivider/developer.**

## **Chapter 15**

### **Storm Water Management**

#### **15.1. Storm Management Permit**

(a) In accordance with the Federal Water Pollution Control Act, 33 U.S.C. Paragraph 125, 1-1387 (1990), also known as the Clean Water Act, as amended in 1987 and codified as 40 C.F.R. Part 122, the Developer shall be required to obtain a storm discharge permit for construction activity from the United States Environmental Protection Agency (EPA).

(b) Under current regulation, construction activities including clearing, grading, and excavation, must be permitted for storm water discharge unless the operations result in the disturbance of less than five acres total land area or areas which are not part of a larger common plan of development. Notice of Intent (NOT) for storm water discharges associated with industrial activity under the National Pollution Discharge Elimination System (NPDES) General Permit with the EPA shall be submitted by the Developer at least two (2) days prior to commencement of construction. During construction a copy of the Storm Water Pollution Prevention Plan shall be available on site in accordance with EPA requirements.

#### **15.2. Storm Water Runoff**

(a) A Subdivision Plat shall not be approved which does not make adequate provisions for storm water runoff. Drainage plans shall be prepared, in accordance with standard engineering practice, and filed with the Preliminary Plat and Final Plat. A Subdivision Final Plat will not be allowed if it will result in an increase in the rate of flow of storm water and would thereby endanger downstream properties of the residents of the Subdivision.

(b) Drainage Plans shall show the extent of all contributing watersheds that impact the Subdivision. The Subdivision engineer shall calculate the potential runoff based on a 100-year return frequency storm. Both to peak flows and volumes of runoff will be calculated for all definable drainage courses.

(c) Drainage structures, where required, shall be designed to accommodate the runoff from a ten year return frequency storm, and to pass a 100-year return frequency storm without damage.

(d) Drainage structures shall be designed to minimize maintenance requirements. Paved swales or culverts may be required where surface water crosses a roadway or intersection. The permitted rates of flow of storm water within swales adjoining roadways shall not endanger the public, nor shall the velocity of runoff cause scouring or other similar destructive erosion of the swale surface.

(e) The engineer for a Subdivision shall study effect of the storm water runoff from the Subdivision on properties downstream of the Subdivision. Where it is anticipated that the additional runoff incident to the development of the Subdivision will overload an existing downstream drainage facility, the Stephens County Commissioner's Court may withhold approval of the Final Plat until the Developer makes provisions to improve the off-site drainage facility. If downstream drainage facilities are not available or are incapable of accommodating the increase storm water runoff, the Stephens County Commissioner's Court may require storm retention basins to prevent an increase in storm water runoff.

(f) A Subdivision in an area which is subject to flooding may be approved by the Stephens County Commissioner's Court, provided that the Developer fills the affected area to an elevation sufficient to place the elevation of roads and finished floor elevation of buildings in the Subdivision to a minimum of twelve inches (12") above the elevation of the expected water surface following a 100-year return frequency flood event. The Stephens County Commissioner's Court may, when it deems it necessary for the health, safety, and/or welfare of the present and future population of the area, deny approval of a Final Plat, unless appropriate modifications are made to the proposed Drainage Plan to ensure that the buildings placed in the Subdivision are adequately elevated above flood levels, as described in this paragraph.

(g) The Drainage Plan shall provide that low-lying lands along natural drainage courses subject to flooding or overflowing during storm periods, shall be reserved and retained in their natural state as drainage ways, and shall not be included as lots for sale in the Subdivision.

(h) Where there are existing spreader dams, tanks, other soil erosion or flood control structures on property to be included in a Subdivision, and where removal of such structures would result in flooding or damage to downstream or adjacent property, or to the Subdivision, the Drainage Plan shall provide that such structures shall not be removed or altered without other adequate provisions having been made for mitigation of such potential flooding or damage. Determination of what constitute adequate mitigation shall be made by the Stephens County Commissioner's Court.

## Chapter 16

### Enforcement

#### 16.1 Oversight

The owner, by submitting a plat, acknowledges the authority of the county and state agencies to lawfully enter and inspect property for purposes of execution of their statutory duties. Such inspection will not release the owner from any obligation to comply with the requirements of these rules.

#### 16.2 Complete Application Required

The Commissioner's Court of Stephens County, Texas shall have the authority to refuse to approve or authorize any map or plat of any such subdivision, unless such map or plat meets the full requirements as set forth in these Subdivision Regulations and there is submitted at the time of approval of such map or plat financial security as may be required by these Subdivision Rules and Regulations.

#### 16.3 No Lot Sold Until Approved

No lot in any subdivision shall be sold or transferred until the final plat is approved and recorded, and all the standards, specifications or requirements contained or referred to herein have been complied with in full.

#### 16.4 Authority to Enforce Regulations

On behalf of Stephens County, the County Attorney or other attorney may, when directed by the Commissioner's Court, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Order or the standards referred to herein with respect to any violation thereon which occurs within Stephens County. The prosecuting attorney may file an action in the court of competent jurisdiction to enjoin any violation or threat of violation of these Subdivisions Rules and Regulations under Section 232 Texas Local Government Code. The prosecuting attorney may also file to recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with these Subdivision Rules and Regulations as established by the Stephens County Commissioner's Court under Section 232 Texas Local Government Code. The County reserves the right to seek all remedies, including injunction, prohibition, damages, and where appropriate, criminal penalties in the enforcement of these rules and regulations.

**Penalty for Violation.** The Commissioner's Court of Stephens County will cause an employee of the Court or any other person or persons it so designates to review periodically those deeds or sales contracts being recorded in the County Clerk's Office to see that any subdivisions affected thereby shall comply with requirements of Chapters 232 and 233 of the Texas Local Government Code and these regulations. If deeds, contracts of sale, transfers of title, or other transactions do not comply with the plat requirements as set forth in this Order and in the State Statutes, the Commissioner's Court of Stephens County or its' representative can so notify the party selling or transferring title in whole or in part to comply with the said requirements.

In the event the said notified party refuses to comply with the requirements of the State Statutes, the Commissioner's Court can take appropriate action to obtain compliance. Any party knowingly, intentionally or negligently violating any provisions of this Order shall be guilty of a Class B misdemeanor and each act of the violation shall constitute a separate offense.

## **Chapter 17**

### **Interpretation, Conflict, Severability, Savings, and Amendments**

17.1 **Interpretation.** In their interpretation and application, the provisions of these Subdivision Rules and Regulations shall be held to be minimum requirements for the promotion of public health, safety, and general welfare. These Subdivision Rules and Regulations shall be construed broadly to promote the purposes for which they are adopted. If any questions arise as to the interpretation of the language in any sections, the Stephens County Commissioner's Court will resolve all differences.

17.2 **Conflicting Orders.** If any other County Order is in conflict with this Order, the most stringent rules will apply. Nothing will be permitted under the provisions of this Order that is in violation with another valid Order of the County.

17.3 **Severability Clause.** If any part or provision of these Subdivision Rules and Regulations, or the application of these Subdivision Rules and Regulations to any person or circumstance is adjudged invalid by any Court of competent jurisdiction, the 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 Subdivision Rules and Regulations or application of them to other persons or circumstances.

17.4 **Savings Provision.** These Subdivision Rules and regulations shall not be construed as abating any action now pending under or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation or as waiving the right of the State or County under any section or provision existing at the time of adoption of these Subdivision Rules and Regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the County except as shall be expressly provided in these Subdivision Rules and Regulations.

17.5 **Public Provisions.** These Subdivision Rules and Regulations are not intended to interfere with, abrogate, or annul any other Stephens County, Texas, regulation, state statute, or other provision of law except as provided in these Subdivision Rules and Regulations. Where any provisions of these Subdivision Rules and Regulations or any other rule or regulation or other provision of law are in conflict, the provision which is more restrictive or imposes a higher standard shall control.


17.6 **Private Provisions.** These Subdivision Rules and Regulations are not intended to abrogate any easement, covenant or other private agreement or restriction, provided that if the provisions of these Subdivision Rules and Regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these Subdivision Rules and Regulations shall govern.

17.7 Amendments. For the purpose of protecting the public health, safety, and general welfare or for any other valid purpose, the Stephens County Commissioner's Court may, from time to time, amend these Subdivisions Rules and Regulations at a public meeting following public notice in the manner prescribed by law.


Passed and approved by the Stephens County Commissioner's Court on the 14<sup>th</sup> day of December, 2020.

  
Michael Roach, Stephens County Judge

  
Will Warren, Stephens County Commissioner  
Precinct 3

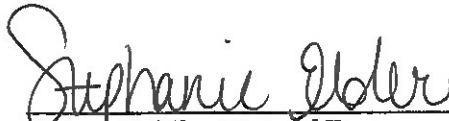
  
Ed Russell, Stephens County Commissioner  
Commissioner, Precinct 1

  
Eric O'Dell, Stephens County Commissioner  
Precinct 4

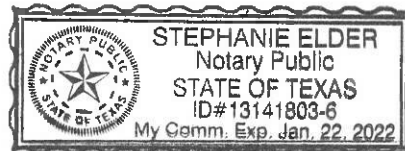
  
Mark McCullough, Stephens County  
Commissioner, Precinct 2

THE STATE OF TEXAS ( )  
COUNTY OF STEPHENS )

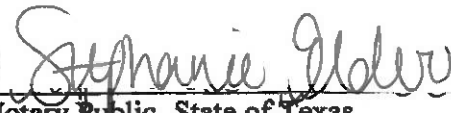
THIS INSTRUMENT WAS ACKNOWLEDGED before me on this 30<sup>th</sup> day of June, 2020, by Michael Roach, Stephens County Judge on behalf of Stephens County Commissioner's Court.

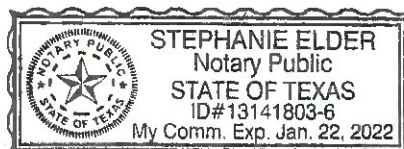
  
Notary Public, State of Texas

THE STATE OF TEXAS ( )  
COUNTY OF STEPHENS )



THIS INSTRUMENT WAS ACKNOWLEDGED before me on this 30<sup>th</sup> day of June, 2020, by Mark McCullough, Stephens County Commissioner, Precinct 2, on behalf of Stephens County Commissioner's Court.

  
Notary Public, State of Texas



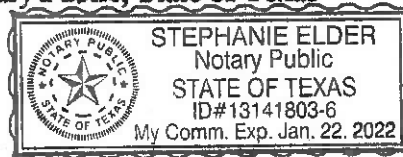
THE STATE OF TEXAS ( )  
COUNTY OF STEPHENS )

THIS INSTRUMENT WAS ACKNOWLEDGED before me on this 30<sup>th</sup> day of June, 2020, by Will Warren, Stephens County Commissioner, Precinct 3, on behalf of Stephens County Commissioner's Court.

*Stephanie Elder*

Notary Public, State of Texas

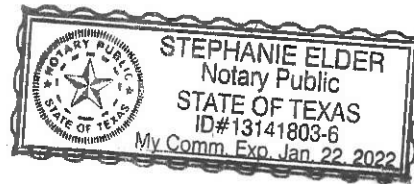
THE STATE OF TEXAS ( )  
COUNTY OF STEPHENS )



THIS INSTRUMENT WAS ACKNOWLEDGED before me on this 30<sup>th</sup> day of June, 2020, by Eric O'Dell, Stephens County Commissioner, Precinct 4, on behalf of Stephens County Commissioner's Court.

*Stephanie Elder*

Notary Public, State of Texas



HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE A. SANITATION

CHAPTER 343. ABATEMENT OF PUBLIC NUISANCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 343.002. DEFINITIONS.

In this chapter:

(1) "Abate" means to eliminate or remedy:

(A) by removal, repair, rehabilitation, or demolition;

(B) in the case of a nuisance under Section 343.011(c)(1), (9), or (10), by prohibition or control of access; and

(C) in the case of a nuisance under Section 343.011(c)(12), by removal, remediation, storage, transportation, disposal, or other means of waste management authorized by Chapter 361.

(2) "Building" means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.

(3) "Garbage" means decayable waste from a public or private establishment or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product.

(4) "Neighborhood" means:

(A) a platted subdivision; or

(B) property contiguous to and within 300 feet of a platted subdivision.

(5) "Platted subdivision" means a subdivision that has its approved or unapproved plat recorded with the county clerk of the county in which the subdivision is located.

(6) "Premises" means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.



(7) "Public street" means the entire width between property lines of a road, street, way, thoroughfare, or bridge if any part of the road, street, way, thoroughfare, or bridge is open to the public for vehicular or pedestrian traffic.

(8) "Receptacle" means a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

(9) "Refuse" means garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

(10) "Rubbish" means nondecayable waste from a public or private establishment or residence.

(10-a) "Undeveloped land" means land in a natural, primitive state that lacks improvements, infrastructure, or utilities and that is located in an unincorporated area at least 5,000 feet outside the boundaries of a home-rule municipality.

(11) "Weeds" means all rank and uncultivated vegetable growth or matter that:

(A) has grown to more than 36 inches in height; or

(B) creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

(12) "Flea market" means an outdoor or indoor market, conducted on non-residential premises, for selling secondhand articles or antiques, unless conducted by a religious, educational, fraternal, or charitable organization.

#### Sec. 343.003. EFFECT OF CHAPTER ON OTHER STATE LAW.

This chapter does not affect a right, remedy, or penalty under other state law.

## SUBCHAPTER B. PUBLIC NUISANCE PROHIBITED

### Sec. 343.011. PUBLIC NUISANCE.

- (a) This section applies only to the unincorporated area of a county.
- (b) A person may not cause, permit, or allow a public nuisance under this section.
- (c) A public nuisance is:
  - (1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
  - (2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;
  - (3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;
  - (4) allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;
  - (5) maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
  - (6) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
    - (A) a fence that is at least four feet high and that has a latched and locked gate; and
    - (B) a cover over the entire swimming pool that cannot be removed by a child;
  - (7) maintaining on any property in a neighborhood in a county with a population of more than 1.1 million a swimming pool that is not protected with:
    - (A) a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or
    - (B) a cover over the entire swimming pool that cannot be removed by a child;
  - (8) maintaining a flea market in a manner that constitutes a fire hazard;

(9) discarding refuse or creating a hazardous visual obstruction on:

(A) county-owned land; or

(B) land or easements owned or held by a special district that has the commissioners court of the county as its governing body;

(10) discarding refuse on the smaller of:

(A) the area that spans 20 feet on each side of a utility line; or

(B) the actual span of the utility easement;

(11) filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement;

(12) discarding refuse on property that is not authorized for that activity; or

(13) surface discharge from an on-site sewage disposal system as defined by Section 366.002.

(d) This section does not apply to:

(1) a site or facility that is:

(A) permitted and regulated by a state agency for the activity described by Subsection (c); or

(B) licensed or permitted under Chapter 361 for the activity described by Subsection (c); or

(2) agricultural land.

(d-1) This subsection applies only to a county with a population of 3.3 million or more and only in an unincorporated area in the county that is at least 5,000 feet outside the boundaries of a home-rule municipality. Subsections (c)(3) and (4) apply only to undeveloped land in the county for which:

(1) a condition on that land has been found to cause a public nuisance under those provisions in the preceding year; and

(2) a finding of public nuisance could have been applied to that condition when the condition first occurred.

(e) In Subsection (d), "agricultural land" means land that qualifies for tax appraisal under Subchapter C or D, Chapter 23, Tax Code.

Sec. 343.0111. SPECIAL EXCEPTION OR VARIANCE TO PUBLIC NUISANCE CLASSIFICATION.

(a) The commissioners court of a county by order may:

(1) describe the circumstances in which a special exception to the application of Section 343.011 is available to a person and may grant the special exception in a specific case if the commissioners court finds that the specific case fits within the special exception, that the grant of the exception promotes justice, that the grant of the exception is not contrary to the public interest, and that the grant of the exception is consistent with the general purpose of Section 343.011; and

(2) authorize in a specific case not covered by a special exception a variance from the terms of Section 343.011 if the commissioners court makes the same findings in connection with the specific case that it makes in connection with a special exception under Subdivision (1) and finds that due to special conditions a literal enforcement of Section 343.011 would result in an unnecessary hardship.

(b) The commissioners court shall keep a record of its proceedings under this section and must include in the record a showing of the reasons for each decision made under this section.

Sec. 343.012. CRIMINAL PENALTY.

(a) A person commits an offense if:

(1) the person violates Section 343.011(b); and

(2) the nuisance remains unabated after the 30th day after the date on which the person receives notice from a county official, agent, or employee to abate the nuisance.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

(c) If it is shown on the trial of the defendant that the defendant has been previously convicted of an offense under this section, the defendant is punishable by a fine of not less than \$200 or more than \$1,000, confinement in jail for not more than six months, or both.

(d) Each day a violation occurs is a separate offense.

(e) The court shall order abatement of the nuisance if the defendant is convicted of an offense under this section.

Sec. 343.013. INJUNCTION.

(a) A county or district court may by injunction prevent, restrain, abate, or otherwise remedy a violation of this chapter in the unincorporated area of the county.

(b) A county or a person affected or to be affected by a violation under this chapter, including a property owner, resident of a neighborhood, or organization of property owners or residents of a neighborhood, may bring suit under Subsection (a). If the court grants the injunction, the court may award the plaintiff reasonable attorney's fees and court costs.

(c) A county may bring suit under this section to prohibit or control access to the premises to prevent a continued or future violation of Section 343.011(c)(1), (6), (9), or (10). The court may grant relief under this subsection only if the county demonstrates that:

(1) the person responsible for causing the public nuisance has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought prohibits or controls access of a person other than the owner; or

(2) the owner of the premises knew about the nuisance and has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought controls access of the owner.

(d) In granting relief under Subsection (c), the court:

(1) may not, in a suit brought under Section 343.011(c)(10), prohibit or control access by the owner or operator of a utility line or utility easement to that utility line or utility easement; and

(2) may not prohibit the owner of the premises from accessing the property but may prohibit a continued or future violation.

SUBCHAPTER C. COUNTY AUTHORITY RELATING TO NUISANCE

Sec. 343.021. AUTHORITY TO ABATE NUISANCE.

(a) If a county adopts abatement procedures that are consistent with the general purpose of this chapter and that conform to this chapter, the county may abate a nuisance under this chapter:

(1) by demolition or removal, except as provided by Subsection (b);

(2) in the case of a nuisance under Section 343.011(c)(1), (9), or (10), by prohibiting or controlling access to the premises;

(3) in the case of a nuisance under Section 343.011(c)(6), by:

(A) prohibiting or controlling access to the premises and installing a cover that cannot be opened by a child over the entire swimming pool; or

(B) draining and filling the swimming pool; or

(4) in the case of a nuisance under Section 343.011(c)(12), by removal, remediation, storage, transportation, disposal, or other means of waste management authorized under Chapter 361.

(b) In the case of a nuisance under Section 343.011(c)(13), the county may use any means of abatement reasonably necessary to bring the system into compliance with Chapter 366 only after the defendant fails to abate the nuisance as ordered by the court under Section 343.012(e).

#### Sec. 343.022. ABATEMENT PROCEDURES.

(a) The abatement procedures adopted by the commissioners court must be administered by a regularly salaried, full-time county employee. A person authorized by the person administering the abatement program may administer:

(1) the prohibition or control of access to the premises to prevent a violation of Section 343.011(c)(1), (6), (9), or (10);

(2) the removal or demolition of the nuisance; and

(3) the abatement of a nuisance described by Section 343.011(c)(12).

(b) The abatement procedures must require that written notice be given to:

(1) the owner, lessee, occupant, agent, or person in charge of the premises; and

(2) the person responsible for causing a public nuisance on the premises when:

(A) that person is not the owner, lessee, occupant, agent, or person in charge of the premises; and

(B) the person responsible can be identified.

(c) The notice must state:

(1) the specific condition that constitutes a nuisance;

(2) that the person receiving notice shall abate the nuisance before the:

(A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or

(B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises;

(3) that failure to abate the nuisance may result in:

(A) abatement by the county;

(B) assessment of costs to the person responsible for causing the nuisance when that person can be identified; and

(C) a lien against the property on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property;

(4) that the county may prohibit or control access to the premises to prevent a continued or future nuisance described by Section 343.011(c)(1), (6), (9), or (10); and

(5) that the person receiving notice is entitled to submit a written request for a hearing before the:

(A) 31<sup>st</sup> day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or

(B) 10<sup>th</sup> business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises.

(d) The notice must be given:

(1) by service in person or by registered or certified mail, return receipt requested; or

(2) if personal service cannot be obtained or the address of the person to be notified is unknown, by posting a copy of the notice on the premises on which the nuisance exists and by publishing the notice in a newspaper with general circulation in the county two times within 10 consecutive days.

(e) Except as provided in Subsection (f), the abatement procedures must require a hearing before the county abates the nuisance if a hearing is requested. The hearing may be conducted before the commissioners court or any board, commission, or official designated by the commissioners court. The commissioners court may designate a board, commission, or official to conduct each hearing.

(f) A county may, before conducting a hearing, abate a nuisance under Section 343.011(c)(6) by prohibiting or controlling access to the premises on which the nuisance is located and installing a cover that cannot be opened by a child over the entire swimming pool, but only if the county conducts a hearing otherwise in accordance with Subsection (e) after the nuisance is abated.

Sec. 343.023. ASSESSMENT OF COSTS; LIEN.

(a) A county may:

(1) assess:

(A) the cost of abating the nuisance, including management, remediation, storage, transportation, and disposal costs, and damages and other expenses incurred by the county;

(B) the cost of legal notification by publication; and

(C) an administrative fee of not more than \$100 on the person receiving notice under Section 343.022; or

(2) by resolution or order, assess:

(A) the cost of abating the nuisance;

(B) the cost of legal notification by publication; and

(C) an administrative fee of not more than \$100 against the property on which the nuisance exists.

(b) The county may not make an assessment against property unless the owner or owner's agent receives notice of the nuisance in accordance with Section 343.022.

(c) To obtain a lien against the property to secure an assessment, the commissioners court of the county must file a notice that contains a statement of costs, a legal description of the property sufficient to identify the property, and the name of the property owner, if known, with the county clerk of the county in which the property is located.



(d) The county's lien to secure an assessment attaches when the notice of lien is filed and is inferior to a previously recorded bona fide mortgage lien attached to the real property to which the county's lien attaches, if the mortgage was filed for record in the office of the county clerk of the county in which the real property is located before the date on which the county files the notice of lien with the county clerk.

(e) The county is entitled to accrued interest beginning on the 31st day after the date of the assessment against the property at the rate of 10 percent a year.

(f) The statement of costs or a certified copy of the statement of costs is prima facie proof of the costs incurred to abate the nuisance.

#### Sec. 343.0235. USE OF COUNTY FUNDS.

A county is entitled to use any money available under other law for a cleanup or remediation of private property to abate a nuisance described by Section 343.011(c)(1), (9), or (10).

#### Sec. 343.024. AUTHORITY TO ENTER PREMISES.

(a) A county official, agent, or employee charged with the enforcement of health, environmental, safety, or fire laws may enter any premises in the unincorporated area of the county at a reasonable time to inspect, investigate, or abate a nuisance or to enforce this chapter.

(b) Before entering the premises, the official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person.

#### Sec. 343.025. ENFORCEMENT.

A court of competent jurisdiction in the county may issue any order necessary to enforce this chapter.

**HEALTH AND SAFETY CODE**

**TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY**

**SUBTITLE B. SOLID WASTE, TOXIC CHEMICALS, SEWAGE, LITTER, AND WATER**

**CHAPTER 365. LITTER**

**SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 365.001. SHORT TITLE.** This chapter may be cited as the Texas Litter Abatement Act.

**Sec. 365.002. WATER POLLUTION CONTROLLED BY WATER CODE.** The pollution of water in the state is controlled by Chapter 26, Water Code, and other applicable law.

**Sec. 365.003. LITTER ON BEACHES CONTROLLED BY NATURAL RESOURCES CODE.** The regulation of litter on public beaches is controlled by Subchapters C and D, Chapter 61, Natural Resources Code.

**Sec. 365.004. DISPOSAL OF GARBAGE, REFUSE, AND SEWAGE IN CERTAIN AREAS UNDER CONTROL OF PARKS AND WILDLIFE DEPARTMENT.**

The Parks and Wildlife Commission may adopt rules to govern the disposal of garbage, refuse, and sewage in state parks, public water in state parks, historic sites, scientific areas, and forts under the control of the Parks and Wildlife Department.

**Sec. 365.005. VENUE AND RECOVERY OF COSTS.**

(a) Venue for the prosecution of a criminal offense under Subchapter B or Section 365.032 or 365.033 or for a suit for injunctive relief under any of those provisions is in the county in which the defendant resides, in the county in which the offense or the violation occurs, or in Travis County.

(b) If the attorney general or a local government brings a suit for injunctive relief under Subchapter B or Section 365.032 or 365.033, a prevailing party may recover its reasonable attorney fees, court costs, and reasonable investigative costs incurred in relation to the proceeding.

## SUBCHAPTER B. CERTAIN ACTIONS PROHIBITED

Sec. 365.011. DEFINITIONS. In this subchapter:

(1) "Approved solid waste site" means:

(A) a solid waste site permitted or registered by the Texas Natural Resource Conservation Commission;

(B) a solid waste site licensed by a county under Chapter 361; or

(C) a designated collection area for ultimate disposal at a permitted or licensed municipal solid waste site.

(2) "Boat" means a vehicle, including a barge, airboat, motorboat, or sailboat, used for transportation on water.

(3) "Commercial purpose" means the purpose of economic gain.

(4) "Commercial vehicle" means a vehicle that is operated by a person for a commercial purpose or that is owned by a business or commercial enterprise.

(5) "Dispose" and "dump" mean to discharge, deposit, inject, spill, leak, or place litter on or into land or water.

(6) "Litter" means:

(A) decayable waste from a public or private establishment, residence, or restaurant, including animal and vegetable waste material from a market or storage facility handling or storing produce or other food products, or the handling, preparation, cooking, or consumption of food, but not including sewage, body wastes, or industrial by-products; or

(B) nondecayable solid waste, except ashes, that consists of:

(i) combustible waste material, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials;

(ii) noncombustible waste material, including glass, crockery, tin or aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures of 1800 degrees Fahrenheit or less; and

(iii) discarded or worn-out manufactured materials and machinery, including motor vehicles and parts of motor vehicles, tires, aircraft, farm implements, building or construction materials, appliances, and scrap metal.

(7) "Motor vehicle" has the meaning assigned by Section 541.201, Transportation Code.

(8) "Public highway" means the entire width between property lines of a road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, if any part of the road, street, way, thoroughfare, bridge, public beach, or park:

(A) is opened to the public for vehicular traffic;

(B) is used as a public recreational area; or

(C) is under the state's legislative jurisdiction through its police power.

(9) "Solid waste" has the meaning assigned by Section 361.003.

**Sec. 365.012. ILLEGAL DUMPING; DISCARDING LIGHTED MATERIALS; CRIMINAL PENALTIES.**

(a) A person commits an offense if the person disposes or allows or permits the disposal of litter or other solid waste at a place that is not an approved solid waste site, including a place on or within 300 feet of a public highway, on a right-of-way, on other public or private property, or into inland or coastal water of the state.

(a-1) A person commits an offense if:

(1) the person discards lighted litter, including a match, cigarette, or cigar, onto open-space land, a private road or the right-of-way of a private road, a public highway or other public road or the right-of-way of a public highway or other public road, or a railroad right-of-way; and

(2) a fire is ignited as a result of the conduct described by Subdivision (1).

(b) A person commits an offense if the person receives litter or other solid waste for disposal at a place that is not an approved solid waste site, regardless of whether the litter or other solid waste or the land on which the litter or other solid waste is disposed is owned or controlled by the person.

(c) A person commits an offense if the person transports litter or other solid waste to a place that is not an approved solid waste site for disposal at the site.

(d) An offense under Subsection (a), (b), or (c) is a Class C misdemeanor if the litter or other solid waste to which the offense applies weighs five pounds or less or has a volume of five gallons or less.

(d-1) An offense under Subsection (a-1) is a misdemeanor under this subsection if the litter or other solid waste to which the offense applies weighs less than 500 pounds or has a volume of less than 100 cubic feet and is punishable by:

- (1) a fine not to exceed \$500;
- (2) confinement in jail for a term not to exceed 30 days; or
- (3) both such fine and confinement.

(e) An offense under Subsection (a), (b), or (c) is a Class B misdemeanor if the litter or other solid waste to which the offense applies weighs more than five pounds but less than 500 pounds or has a volume of more than five gallons but less than 100 cubic feet.

(f) An offense under this section is a Class A misdemeanor if:

(1) the litter or other solid waste to which the offense applies weighs 500 pounds or more but less than 1,000 pounds or has a volume of 100 cubic feet or more but less than 200 cubic feet; or

(2) the litter or other solid waste is disposed for a commercial purpose and weighs more than five pounds but less than 200 pounds or has a volume of more than five gallons but less than 200 cubic feet.

(g) An offense under this section is a state jail felony if the litter or solid waste to which the offense applies:

(1) weighs 1,000 pounds or more or has a volume of 200 cubic feet or more;

(2) is disposed of for a commercial purpose and weighs 200 pounds or more or has a volume of 200 cubic feet or more; or

(3) is contained in a closed barrel or drum.

(h) If it is shown on the trial of the defendant for an offense under this section that the defendant has previously been convicted of an offense under this section, the punishment for the offense is increased to the punishment for the next highest category.

(i) On conviction for an offense under this section, the court shall provide to the defendant written notice that a subsequent conviction for an offense under this section may result in the forfeiture under Chapter 59, Code of Criminal Procedure, of the vehicle used by the defendant in committing the offense.

(j) The offenses prescribed by this section include the unauthorized disposal of litter or other solid waste in a dumpster or similar receptacle.

(k) This section does not apply to the temporary storage for future disposal of litter or other solid waste by a person on land owned by that person, or by that person's agent. The commission by rule shall regulate temporary storage for future disposal of litter or other solid waste by a person on land owned by the person or the person's agent.

(l) This section does not apply to an individual's disposal of litter or other solid waste if:

- (1) the litter or waste is generated on land the individual owns;
- (2) the litter or waste is not generated as a result of an activity related to a commercial purpose;
- (3) the disposal occurs on land the individual owns; and
- (4) the disposal is not for a commercial purpose.

(m) A municipality or county may offer a reward of \$50 for reporting a violation of this section that results in a prosecution under this section.

(n) An offense under this section may be prosecuted without alleging or proving any culpable mental state, unless the offense is a state jail felony.

(o) For purposes of a prosecution under Subsection (g), a generator creates a rebuttable presumption of lack of culpable mental state if the generator of the solid waste to be disposed of secures, prior to the hauler's receipt of the solid waste, a signed statement from the hauler that the solid waste will be disposed of legally. The statement shall include the hauler's valid Texas driver's license number.

(p) It is an affirmative defense to prosecution under Subsection (a-1) that the person discarded the lighted litter in connection with controlled burning the person was conducting in the area into which the lighted litter was discarded.

(q) The operator of a public conveyance in which smoking tobacco is allowed shall post a sign stating the substance of Subsections (a-1) and (d-1) in a conspicuous place within any portion of the public conveyance in which smoking is allowed.

(r) If conduct that constitutes an offense under Subsection (a-1) also constitutes an offense under Subsection (a), the actor may be prosecuted only under Subsection (a-1). If conduct that constitutes an offense under Subsection (a-1) also constitutes an offense under Chapter 28, Penal Code, the actor may be prosecuted under Subsection (a-1) or Chapter 28, Penal Code, but not both.

(s) On conviction of an offense under this section, the court shall require the defendant, in addition to any fine or other penalty, to perform community service as provided by Article 42A.304(e), Code of Criminal Procedure.

**Sec. 365.013. RULES AND STANDARDS; CRIMINAL PENALTY.**

(a) The Texas Natural Resource Conservation Commission shall adopt rules and standards regarding processing and treating litter disposed in violation of this subchapter.

(b) A person commits an offense if the person violates a rule adopted under this section.

(c) An offense under this section is a Class A misdemeanor.

(d) On conviction of an offense under this section, the court shall require the defendant, in addition to any fine or other penalty, to perform community service as provided by Article 42A.304(e), Code of Criminal Procedure.

**Sec. 365.014. APPLICATION OF SUBCHAPTER; DEFENSES; PRESUMPTIONS.**

(a) This subchapter does not apply to farmers:

(1) in handling anything necessary to grow, handle, and care for livestock; or

(2) in erecting, operating, and maintaining improvements necessary to handle, thresh, and prepare agricultural products or for conservation projects.

(b) A person who dumps more than five pounds or 13 gallons of litter or other solid waste from a commercial vehicle in violation of this subchapter is presumed to be dumping the litter or other solid waste for a commercial purpose.

(c) It is an affirmative defense to prosecution under Section 365.012 that:

(1) the storage, processing, or disposal took place on land owned or leased by the defendant;

(2) the defendant received the litter or other solid waste from another person;

(3) the defendant, after exercising due diligence, did not know and reasonably could not have known that litter or other solid waste was involved; and

(4) the defendant did not receive, directly or indirectly, compensation for the receipt, storage, processing, or treatment.

**Sec. 365.015. INJUNCTION; VENUE; RECOVERY OF COSTS.**

(a) A district attorney, a county attorney, or the attorney general may bring a civil suit for an injunction to prevent or restrain a violation of this subchapter. A person affected or to be affected by a violation is entitled to seek injunctive relief to enjoin the violation.

(b) Venue for a prosecution of a criminal offense under this subchapter or for a civil suit for injunctive relief under this subchapter is in the county in which the defendant resides, the county in which the offense or violation occurred, or in Travis County.

(c) In a suit for relief under this section, the prevailing party may recover its reasonable attorney fees, court costs, and reasonable investigative costs incurred in relation to the proceeding.

**Sec. 365.016. DISPOSAL OF LITTER IN A CAVE; CRIMINAL PENALTY.**

(a) A person commits an offense if the person disposes litter, a dead animal, sewage, or any chemical in a cave.

(b) An offense under this section is a Class C misdemeanor unless:

(1) it is shown on the trial of the defendant that the defendant previously has been convicted once of an offense under this section, in which event the offense is a Class A misdemeanor; or

(2) it is shown on the trial of the defendant that the defendant previously has been convicted two or more times of an offense under this section, in which event the offense is a felony of the third degree.

(c) On conviction of an offense under this section, the court shall require the defendant, in addition to any fine or other penalty, to perform community service as provided by Article 42A.304(e), Code of Criminal Procedure.

**Sec. 365.017. REGULATION OF LITTER IN CERTAIN COUNTIES.**

(a) The commissioners court of a county may adopt regulations to control the disposal of litter and the removal of illegally dumped litter from private property in unincorporated areas of that county. The commissioners court may not adopt regulations under this section concerning the disposal of recyclable materials as defined in Chapter 361 of the Health and Safety Code.

(b) Prior to the adoption of regulations the commissioners court of a county must find that the proposed regulations are necessary to promote the public health, safety, and welfare of the residents of that county.

(c) The definitions of Section 365.011 apply in this Act. "Illegally dumped litter" means litter dumped anywhere other than in an approved solid waste site. "Litter" has the meaning assigned by Section 365.011, except that the term does not include equipment used for agricultural purposes.



(d) The regulations adopted by the commissioners court may require the record property owners to pay for the cost of removal after the commissioners court has given the record property owner 30 days written notice to remove the illegally dumped litter.

(e) Regulations adopted under this section are in addition to any other law regarding this issue and the stricter law shall apply.

(f) In addition to any other remedy provided by law, a district attorney, a county attorney, or the attorney general may bring a civil suit to enjoin violation of regulations adopted under this section and to recover the costs of removal of illegally dumped litter. In such a suit the prevailing party may recover its reasonable attorney fees, court fees, and reasonable investigative costs incurred in relation to that proceeding.

### SUBCHAPTER C. SPECIAL PROVISIONS

#### Sec. 365.031. LITTER, GARBAGE, REFUSE, AND RUBBISH IN LAKE SABINE.

The governing body of Port Arthur by ordinance may prohibit the depositing or placing of litter, garbage, refuse, or rubbish into or on the waters of Lake Sabine within the municipal limits.

#### Sec. 365.032. THROWING CERTAIN SUBSTANCES IN OR NEAR LAKE LAVON; CRIMINAL PENALTY.

(a) The definitions provided by Section 365.011 apply to this section.

(b) A person commits an offense if the person throws, leaves, or causes to be thrown or left wastepaper, glass, metal, a tin can, refuse, garbage, waste, discarded or soiled personal property, or any other noxious or poisonous substance in the water of or near Lake Lavon in Collin County if the substance is detrimental to fish or to a person fishing in Lake Lavon.

(c) An offense under this section is a Class C misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this section, in which event the offense is a Class A misdemeanor.

#### Sec. 365.033. DISCARDING REFUSE IN CERTAIN COUNTY PARKS; CRIMINAL PENALTY.

(a) The definitions provided by Section 365.011 apply to this section.

(b) In this section, "beach" means an area in which the public has acquired a right of use or an easement and that borders on the seaward shore of the Gulf of Mexico or extends from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico.

(c) This section applies only to a county park located in a county that has the Gulf of Mexico as one boundary, but does not apply to a beach located in that park.

(d) A person commits an offense if the person discards in a county park any junk, garbage, rubbish, or other refuse in a place that is not an officially designated refuse container or disposal unit.

(e) An offense under this section is a Class C misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this section, in which event the offense is a Class A misdemeanor.

**Sec. 365.034. COUNTY REGULATION OF LITTER NEAR PUBLIC HIGHWAY;  
CRIMINAL PENALTY.**

(a) The commissioners court of a county may:

(1) by order prohibit the accumulation of litter for more than 30 days on a person's property within 50 feet of a public highway in the county;

(2) provide for the removal and disposition of litter accumulated near a public highway in violation of an order adopted under this section; and

(3) provide for the assessment against a person who owns the property from which litter is removed under Subdivision (2) of the costs incurred by the county in removing and disposing of the litter.

(b) Before the commissioners court takes any action to remove or dispose of litter under this section, the court shall send a notice by certified mail to the record owners of the property on which the litter is accumulated in violation of an order adopted under this section. The court may not remove or dispose of the litter or assess the costs of the removal or disposition against a property owner before the 30th day after the date the notice is sent under this subsection.

(c) If a person assessed costs under this section does not pay the costs within 60 days after the date of assessment:

(1) a lien in favor of the county attaches to the property from which the litter was removed to secure the payment of the costs and interest accruing at an annual rate of 10 percent on any unpaid part of the costs; and

(2) the commissioners court shall file a record of the lien in the office of the county clerk.

(d) The violation of an order adopted under this section is a Class C misdemeanor.

(e) In this section:

(1) "Litter" has the meaning assigned by Section 365.011 except that the term does not include equipment used for agricultural purposes.

(2) "Public highway" has the meaning assigned by Section 365.011.

**Sec. 365.035. PROHIBITION ON POSSESSING GLASS CONTAINERS WITHIN BOUNDARY OF STATE-OWNED RIVERBED; PENALTIES.**

(a) In this section, "glass container" means a glass container designed to contain a beverage, including a bottle or jar.

(b) A person commits an offense if the person knowingly possesses a glass container within the boundaries of a state-owned riverbed in a county:

(1) that is located within 85 miles of an international border; and

(2) in which at least four rivers are located.

(c) An offense under this section is a Class C misdemeanor.

(d) It is a defense to prosecution under Subsection (b) that the person who possessed the glass container:

(1) did not transport the glass container into the boundaries of the riverbed;

(2) possessed the glass container only for the purpose of lawfully disposing of the glass container in a designated waste receptacle; or

(3) is the owner of property adjacent to the section of the riverbed in which the person possessed the glass container.

(e) It is an exception to the application of Subsection (b) that the person possessed the glass container only for the purpose of water sampling or conducting scientific research as authorized by:

(1) a governmental entity;

(2) a utility as defined by Section 11.004, Utilities Code;

(3) a retail public utility as defined by Section 13.002, Water Code;

(4) a power generation company as defined by Section 31.002, Utilities Code;

(5) a surface coal mining and reclamation operation, as defined by Section 134.004, Natural Resources Code; or

(6) a school-sponsored or university-sponsored educational activity.

## JUNK YARD REGULATIONS

### Sec. 396.001. DEFINITIONS. In this chapter:

(1) "Automotive wrecking and salvage yard" means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.

(2) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.

(3) "Junkyard" means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

(4) "Recycling business" means a business primarily engaged in the business of:

(A) converting metal or other material into raw material products that have:

- (i) prepared grades; and
- (ii) an existing or potential economic value;

(B) using raw material products described by Paragraph (A) in the production of new products; or

(C) obtaining or storing metal or other material for a purpose described by Paragraph (A) or (B).

(5) "Wrecked vehicle" means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.

### Sec. 396.002. INJUNCTION.

(a) A person is entitled to an injunction to prohibit a violation or threatened violation of this chapter or of a county ordinance adopted under this chapter.

(b) The venue for the injunction proceeding is in the county in which any part of the junkyard or automotive wrecking and salvage yard is located.

## SCREENING REQUIREMENTS AND LOCATION

### Sec. 396.021. SCREENING REQUIREMENTS.

(a) This section does not apply to:

- (1) an automotive wrecking and salvage yard as defined by and subject to Chapter 397;
- (2) a junkyard as defined by Section 391.001 and subject to Subchapter E, Chapter 391;
- (3) a recycling business; or
- (4) a junkyard or an automotive wrecking and salvage yard entirely in a municipality and regulated by the municipality.

(b) A person who operates a junkyard or an automotive wrecking and salvage yard shall screen the junkyard or automotive wrecking and salvage yard with a solid barrier fence at least eight feet high. The fence must be painted a natural earth tone color and may not have any sign appear on its surface other than a sign indicating the business name.

~~(c) A person who operates a junkyard or an automotive wrecking and salvage yard in a county with a population of 200,000 or less shall screen the junkyard or automotive wrecking and salvage yard to at least six feet in height along the portion of the junkyard or automotive wrecking and salvage yard that faces a public road or residence. The person may screen the yard by any appropriate means, including:~~

- (1) a fence;
- (2) natural objects; or
- (3) plants.

### Sec. 396.022. LOCATION OF YARD.

(a) A junkyard or an automotive wrecking and salvage yard may not be located:

- (1) within 50 feet of the right-of-way of a public street or state highway;
- or
- (2) within 50 feet of the nearest property line of a residence.

(b) A person may not accumulate or stack materials associated with a junkyard or an automotive wrecking and salvage yard higher than eight feet above ground level.

(c) This section does not apply to a junkyard or an automotive wrecking and salvage yard used only for farm equipment.

Sec. 396.023. EFFECT OF LOCAL ORDINANCE. A person who operates a junkyard or an automotive wrecking and salvage yard, in screening the yard, shall comply, to the extent practicable, with an applicable ordinance adopted by a political subdivision.

Sec. 396.024. PENALTY.

(a) A person commits an offense if the person knowingly violates Section 396.021 or 396.022.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$500.

(c) Each day a violation continues is a separate offense.

COUNTY REGULATION OF JUNKYARDS OR AUTOMOTIVE WRECKING AND SALVAGE YARDS

Sec. 396.041. COUNTY LICENSE.

(a) This section does not apply to:

(1) a recycling business;

(2) a junkyard or automotive wrecking and salvage yard located entirely in a municipality and subject to regulation by the municipality; or

(3) a junkyard or automotive wrecking and salvage yard in operation before June 1, 1987.

(b) To protect the public health, safety, or welfare, the commissioners court of a county may by ordinance require a junkyard or automotive wrecking and salvage yard to be licensed by the county.

(c) An ordinance may:

(1) impose a fee of \$25 for the issuance or renewal of a license;

(2) impose a fee of not more than:

(A) \$150 for the issuance or renewal of a license, if the ordinance is adopted by the commissioners court of a county with a population of one million or more that contains two or more municipalities, each of which has a population of 250,000 or more; or

(B) \$500 for the issuance or renewal of a license, if the ordinance is adopted by the commissioners court of a county with a population of 3.3 million or more;

(3) condition the license on the operation of the junkyard or automotive wrecking and salvage yard only at a location approved by the commissioners court or a county employee designated by the commissioners court; or

(4) establish grounds for suspending or revoking a license if the junkyard or automotive wrecking and salvage yard is not screened.

(d) The county shall deposit each license fee received to the credit of the county general fund.

#### Sec. 396.042. PUBLIC HEARING.

(a) Before adopting an ordinance under Section 396.041, the commissioners court must hold a public hearing.

(b) Any interested member of the public may appear and testify at the hearing about the subject of the proposed ordinance.

#### Sec. 396.043. NOTICE OF HEARING.

(a) The commissioners court shall:

(1) post in a public place in the county courthouse a notice of the time, place, and general subject of the public hearing; and

(2) publish the notice in a newspaper of general circulation in the county.

(b) The notice must be:

(1) posted for the 10 days preceding the date of the public hearing; and

(2) published at least once a week for the three weeks preceding the week the public hearing is held.

**Sec. 396.044. CONFLICT WITH OTHER LAW.** If a requirement, standard, or condition established under this subchapter conflicts with another law of this state, a rule adopted under state law, or a municipal ordinance, the stricter of the two provisions prevails.

**Sec. 396.045. PENALTY.**

(a) A person commits an offense if the person violates an ordinance adopted under this subchapter that defines an offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 and not more than \$500.

(c) Each day a violation continues is a separate offense.