

# **Polk County**

## **Subdivision Regulations**

Effective as of

The 24<sup>th</sup> day of July 2024

Approved and Accepted by

Polk County Commissioners Court

On this 23<sup>rd</sup> day of July 2024

**POLK COUNTY, TEXAS  
SUBDIVISION REGULATIONS**

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## **INTRODUCTION**

The purposes of these Subdivision Regulations are to provide for the safety, health, and well-being of the general public by requiring that adequate streets, storm 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 Polk County, Texas.

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 Commissioners 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 Polk County Commissioners 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 Commissioners Court may amend this Subdivision Rules Regulations Order to make non-substantive changes from time to time following notice and the vote of a simple majority of the Commissioners Court, and may adopt new, substantive requirements pursuant to this Order following public notice, hearing and compliance with requirement of law.

**POLK COUNTY, TEXAS  
SUBDIVISION REGULATIONS**

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 ANY INCORPORATED MUNICIPALITY IN POLK COUNTY, TEXAS.

**THE STATE OF TEXAS, COUNTY OF POLK, IN COMMISSIONERS COURT OF POLK COUNTY, TEXAS, JULY 23, 2024.**

**WHEREAS:** Polk County 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 (regulation of public highways for litter control); Tex. Health and Safety Code Ann., Chapter 366 (authority to adopt standards for on-site sewerage 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 Commissioners Court is empowered with the authority to formulate such rules and regulations by the foregoing authority, and the Commissioners Court has favorably received and voted on these rules, recommend that these regulations be adopted in order to preserve and protect the resources, public health and private property interests of Polk County following public notice, investigation and public hearing, has declared and hereby declares these Regulations to be necessary and appropriate to accomplish the purposes and goals enumerated above.

**NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF POLK COUNTY, TEXAS, AS FOLLOWS:**

## **Section 1: GENERAL PROVISIONS**

- 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; or
  - (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.

### **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.
- b. Lots of five acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the plat and all deeds and contracts for deeds.
- c. No subdivided land shall be sold or conveyed until the subdivider:
  - i. has received approval of a plat of the tract; and
  - ii. has filed and recorded a legally approved plat with the Polk 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 Polk County 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. Every owner/subdivider/developer (hereinafter called "Owner/subdivider/developer") of any tract of land situated outside the corporate limits of any incorporated municipality in Polk County, Texas, who may hereafter divide the same in two (2) or more parts for laying out lots or for the purpose of laying out streets, alleys, or parks or other portions intended for public use shall cause a plat to be made thereof which shall accurately describe all of said subdivision or addition by

metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions of all lots, streets, or other portions intended to be dedicated to public use or for the use of purchasers or owners of lots. Said map or plat, shall be prepared in compliance with these regulations and with the subdivision statutes of the State of Texas and shall be submitted to the Commissioners Court for approval prior to filing with County Clerk.

- g. In areas within the Municipality Limits and Extraterritorial Jurisdiction (ETJ) of the Cities of Polk County, the provisions are as follows:
  - i. property located 100% within the municipal limits or a municipality and/or the ETJ of such municipalities are under exclusive jurisdiction of said Cities in accordance with interlocal agreements signed with Polk County.
- h. In the event that the proposed subdivision is a revision of a recorded plat, the Owner/subdivider/developer will be required to meet the requirements of these Regulations for revisions, as well as these specifications. An existing subdivision plat may be cancelled, revised, or Amended by the owner/subdivider/developers thereof in conformance with these Regulations and Sections 232.008, 232.0083, 232.0085, 232.009, 232.0095, 232.010, or 232.011 of the Texas Local Government Code and upon approval by the Commissioners Court.
- i. With the inception of these Regulations, the installation of septic systems on any lot in a subdivision shall not occur until a plat has been approved and filed for record, and all the standards contained herein or referred to herein have been complied with in full.
- j. Water Availability Regulations apply to all applications for approval of a plat for a Subdivision wholly or partially within Polk County, Texas except when platting is exempt from the subdivision regulations (*see excluded transactions*).

## **Section 2: ENFORCEMENT**

The Commissioners Court of Polk County shall have the authority to refuse to approve or authorize any map or plat of any such subdivisions, 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 Regulations. No lot in any subdivision shall be sold or transferred until the plat is approved and recorded, and all the standards, specifications or requirements contained or referred to herein have been complied with in full. On behalf of Polk County, the County Attorney or other attorney may, when directed by the Commissioners 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 Polk County's jurisdiction. 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.

**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.

**Severability Clause.** If any provision of this Order or the application thereof, to any person or circumstance is held invalid, the remainder of the Order and the application of such provision to their persons or circumstances shall not be affected thereby.

**Penalty for Violation.** The Commissioners Court of Polk 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.

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 Commissioners Court of Polk 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 Commissioners Court can take appropriate action to obtain compliance. Any party 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.

### **Section 3: VARIANCE**

The Commissioners Court may authorize a variance from the Subdivision Regulations when, in its opinion, undue hardship will result from requiring strict compliance. In approving a variance, the Commissioners 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 Court with a list of, and a detailed justification, for each variance requested. The decision of the Court whether to grant or deny a variance is at its complete discretion and will be final.

In approving a variance, the Commissioners Court shall prescribe only conditions that it deems necessary or desirable to the public interest. In making their findings, the Commissioners Court shall take into 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 Commissioners Court finds:

1. 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,
2. 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,
3. 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 Commissioners 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 Variance shall be granted as to required improvements.

## **Section 4: BOND/SECURITY REQUIREMENTS**

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

1. All construction shall be complete within two (2) years after approval of 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 Bonds, executed by a Surety Company authorized to do business in this state, and made payable to the County Judge of Polk County, Texas, or his successor in office.
2. The bond amount shall be equal to one hundred percent (100%) of the estimated cost of construction of roads, streets, street signs, underground utilities, required drainage structure, and all other construction.
3. The construction bonds 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 Commissioners Court or its designee, and the construction bond has been released by a Court Order from the Commissioners Court.
4. In the event any or all 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 attention in writing by the County Commissioners Court or its designee, the unfinished improvements shall be completed at the cost and expense of obligors as provided.
5. The plat shall not be approved or recorded unless the Owner/subdivider/developer has filed with the Commissioners 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 Polk 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 two (2) years after approval of such plat, such bond to be approved by the County Commissioners Court.
6. 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 thirty (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 Commissioners 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 Commissioners Court, and the bond has been released by Order of the Commissioners Court. **It is the responsibility of the Owner/subdivider/developer to advise the County Commissioners Court of the status of construction prior to the expiration of the two (2) year construction period as stated above.**

## **Maintenance Bond**

1. To ensure roads, streets, street signs, underground utilities, required drainage structures and all other construction are maintained to the satisfaction of the County Commissioners Court or its designee, a maintenance bonds executed by a Surety Company authorized to do business in this state, and made payable to the County Judge of Polk County, Texas, or his successor in office, shall be substituted for the construction bond at the time of release of said construction bond.
2. The maintenance bond amount shall be equal to ten percent (10%) of the estimated cost of roads, streets, street signs, underground utilities, required drainage structures and all other construction.
3. The conditions of the maintenance bond shall be that the owner/subdivider/developer shall guarantee to maintain, to the satisfaction of Polk County, 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 Commissioners Court, in a good state of repair for a period of two (2) years from the date of the official release of construction security.
4. 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 Commissioners Court or its designee 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 obligors as in said orders provided.
5. The release of any bond shall be by order of the Commissioners 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 his letter shall be one (1) 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 Polk County at least fourteen (14) days prior to the next regularly scheduled meeting of Commissioners Court.

**Plat Notation: Each Plat shall bear the following notation:**

**Polk County shall not repair, maintain, install, or provide any streets or roads in any subdivision for which a 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 Polk County 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 Commissioners Court. Approval of the subdivision plat for filing does not indicate any agreement or understanding that Polk County will assume responsibility for maintenance of roads, streets, alleys or other areas dedicated to public use on the plat.**

The Commissioners Court shall not in any case accept such roads and improvements on behalf of the County for a period of at least two (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 two (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 Commissioners 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.

**Bond Extension:** Where good cause exists, the County may extend the period of time for completion for additional periods of time not to exceed six (6) months each 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(s) of time.

**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.

**Other Security:** Any type of security for construction and maintenance other than Bonds and Irrevocable Letters of Credit shall be by written request to Polk County, and must first be approved by Commissioners Court.

**Section 5: EXCLUDED TRANSACTIONS**

Pursuant to Section 232.0015, Texas Local Government Code, the divisions of land listed below are exceptions provided by state law from these subdivision regulations. Developers may request a Certificate of Exemption from the Commissioners Court if their planned development qualifies for one of the exemptions below. Certificates of Exemption approved by the Commissioners Court will be recorded in the minutes of the Court along with a copy of the developer's plat or survey to document the exemption.

(a) Polk County 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 (a) (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) Polk County 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) Polk County 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 complete a subdivision application for Commissioners Court approval 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.

**\*\*Note\*\* If a dedicated easement for access to more than one lot is included, a plat will be required.**

(d) Polk County 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 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) Polk County 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; **and**
- (2) the land is situated in a floodplain; **and**
- (3) the lots are sold to adjoining landowners.

(g) Polk County 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 at least (12) twelve months by the owner, and the other new part is to be transferred to another person; **and**
- (3) the original tract has not already subdivided once in the previous twelve (12) month period.

(h) Polk County 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) 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. The number of new parts may not exceed the number of persons who owned an undivided interest in the original tract.

#### **Discretionary Exceptions:**

To determine whether specific divisions of land are required to be platted, Polk County may define and classify the divisions. Polk County need not require platting for every division of land within the

scope of this subchapter. 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.

## **Supersession**

These rules supersede any conflicting regulations of Polk County.

## **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 Commissioners Court hereby declares that it would have enacted the remainder of these regulations without any such part, provision or application.

## **Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) **Business Day**—a day other than a Saturday, Sunday, or holiday recognized by Polk County, TX.
- (2) **Commission**--the Texas Commission on Environmental Quality and any of its predecessor or successor entities.
- (3) **Commissioners Court**--The Commissioners Court of Polk County, Texas
- (4) **County**--Polk County, Texas.
- (5) **County Engineer**--The individual designated from time to time by the Polk County Commissioners Court to act and serve as the Polk County Engineer.
- (6) **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.
- (7) **Engineer**--A person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.
- (8) **Lot**--An undivided tract or parcel of land.
- (9) **Manufactured Home Rental Community**--A plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60

months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

- (10) **Minor Subdivision**--A subdivision of a single tract of land into four or fewer lots fronting an existing highway or county-maintained road, which does not lay out any new roads or public spaces and is not in a floodplain.
- (11) **Model Rules**--The term "model rules" shall refer to the Model Rules under chapter 16 of the Texas Water Code. Where there is conflict between the Model Rules and these subdivision rules, the stricter rule will apply
- (12) **Non-public water system**--Any water system supplying water for domestic purposes which is not a public water system.
- (13) **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.
- (14) **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.
- (15) **Platted**--Recorded with the county in an official plat record.
- (16) **Polk County OSSF Rules**--The Rules and Regulations of Polk County, Texas for On-Site Sewage Facilities adopted by the Polk County Commissioners Court on November 10, 2009, and as amended from time to time.
- (17) **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.
- (18) **Purchaser**--Shall include purchasers under executory contracts for conveyance of real property.
- (19) **Retail public utility**--Any entity meeting the definition of a retail public utility as defined in Water Code §13.002.

- (20) **Scribner error** – a minor error in notation on a plat that, upon correction by the maker of the error, would not affect the intent of the plat or its legal validity and therefore not require the consent of the signatories or the reconsideration by the commissioner's court. An error in a called bearing or distance, an adjacent street name, a spelling error, or addition of a north arrow would constitute a Scribner error.
- (21) **Sewerage facilities**--The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.
- (22) **Subdivider**--Any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.
- (23) **Subdivision**--Any tract of land divided into two or more parts that results in the creation of two or more lots as defined by this regulation. A subdivision includes re-subdivision (replat) of land which was previously divided.
- (24) **TAC**--Texas Administrative Code, as compiled by the Texas Secretary of State.
- (25) **TCEQ**--The Texas Commission on Environmental Quality.
- (26) **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.

## Section 6: **PLATTING PROCEDURES**

### **Scope of review**

- (a) The commissioners 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 commissioners court that does not include all of the documentation or other information required by Subsection (a), the commissioners court or the court's designee shall, not later than the 10th business day after the date the commissioners court receives the application, notify the applicant of the missing documents or other information. The commissioners 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. Only complete applications will be accepted for consideration. 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 commissioners court or the court's designee shall approve, approve with conditions, or disapprove a plat application not later than the 30th 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 commissioners 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 commissioners 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:

(A) requested and agreed to in writing by the applicant and approved by the commissioner's court or the court's designee; or

(B) 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 commissioners 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 20th day after the date a completed plat application is received by the commissioner's court or the court's designee.

(h) The commissioners 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 commissioners court or the court's designee fails to approve, approve with conditions, or disapprove a plat application as required by this section:

(1) the commissioners court shall refund the greater of the unexpended portion of any application fee or deposit or 50 percent of an application fee or deposit that has been paid; and

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

(3) the applicant may apply to a district court in the county where the tract of land is located for a writ of mandamus to compel the commissioners court to issue documents recognizing the plat application's approval.

## **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:
  - (1) 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
  - (2) may not be arbitrary.

## **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 commissioners 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 commissioners court or designee may not establish a deadline for an applicant to submit the response.

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

- (a) A commissioners 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 15th day after the date the response was submitted under Section 232.0027 Texas Local Government Code.
- (b) A commissioners 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 commissioners 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 commissioners 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.

### **Prerequisites to approval**

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

- (1) dedicated the sites for the adequate water and sewerage facilities identified in the plat to the appropriate retail public utility responsible for operation and maintenance of the facilities; and
- (2) provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from the commission of the description of means and methods and specifications for such construction, including any change orders filed with these agencies; or
- (3) obtained all necessary permits for the proposed water facilities and sewerage facilities (other than for OSSF permits on individual lots within the proposed subdivision) and has entered into a financial agreement with the county secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in Division 3 of this subchapter.

### **Time Extensions for Providing Facilities**

#### **Reasonableness**

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

- (1) any financial guarantees provided with the plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with §364.54 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.

**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.

**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.

In accordance with Section 245.005 of the Local Government Code, approval of a Plat Application shall expire and be of no further force and effect in the event the Plat Application for a portion of the Subdivision is not filed within twenty-four (24) months following the date of the Commissioners Court approval of the

Plat or in the event that no progress has been made towards completion of the project within the project activity period. For purposes of this section, the term “project activity period” means the later of:

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

## Section 7: **PLAT REQUIREMENTS**

*Submit one (1) Original Plat on 18" x 24" Translucent Bond Medium Paper or Mylar printed in black ink on white material and five (5) copies of the same size. Distribution is as follows: one (1) fully signed Translucent Bond Medium Paper or Mylar original to the Clerk of the Court, and five (5) copies to the County Clerk, who will deliver one (1) copy to the Central Appraisal District, one (1) copy to each of the three title companies, and one (1) to the Commissioner in whose Precinct the Subdivision lies. Two (2) PDF copies on CDs or Flash Drives are also required for distribution as follows: one (1) for the Polk County Clerk and one (1) for the 9-1-1 Coordinator.*

The Owner/subdivider/developer shall cause to have prepared a complete Plat Application of the proposed subdivision which shall show (see Checklist, Appendix A):

\*Denotes items which must be shown on signed plat.

\*\*Denotes items which must be shown on the signed plat, if applicable.

1. \*Survey name(s), Abstract number(s), and Line(s)
2. \*Name of proposed subdivision.
3. \*Lot and block numbers.
4. \*All lot dimensions.
5. \*Acreage, to two decimal points, of all lots and tracts.
6. \*\*Proposed street names, pre-approved by the 9-1-1 Coordinator. [Location for street address signage will be furnished by Polk County in accordance with applicable regulations.]
7. \*\*Street right-of-way widths.
8. \*\*Tangent lengths, centerline radii, names, and right of way dimensions for all proposed and existing streets.
9. \*\*Areas proposed for recreational use, *i.e., courses, parks, greenbelts, etc.*
10. \*\*Transfer of rights-of-way or easements, including any alleys and/or utility easements.
11. Proposed land use of all lots being subdivided.
12. \*Real Property Record volume and page reference and names of all current owner or subdivision name/lot/block of contiguous property surrounding the proposed subdivision.
13. Land use of all contiguous tracts, *i.e., undeveloped, subdivided, etc.*

14. All major topographic features on or adjacent to the property as well as elevation contours at no greater than one-foot (1') intervals if in a floodplain, and no greater than five-foot (5') intervals if not in a floodplain. Elevation contours are not required for a Minor Subdivision.
15. \*Areas of Special Flood Hazard as shown by the current Flood Hazard Boundary Maps as authorized by FEMA. Each tract shall be inspected and flood plain determination made on its own merits. If no areas of Special Flood Hazard are present in the subdivision, so state in notes.
16. 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.
17. \*\*Master Development Plans [*If the subdivision is a portion of a larger tract of land, the exterior boundary of the parent tract shall be shown on the Plat with future plans for the remaining property noted. If the parent tract is larger than 320 acres, the Plat may be prepared at a scale no smaller than one inch (1") equals one thousand feet (1000'), with the area proposed to be subdivided detailed at a scale no smaller than one-inch equals two hundred feet (1" =200').*]
18. \*North directional indication arrow.
19. \*Vicinity or Location map showing the proposed subdivision in relation to major roads, towns, cities, and topographic features.
20. \*Names and addresses of the current owner/subdivider/developers of the subdivision property, including Real Property Record volume and page references.
21. \*Name and address of the proposed owner/subdivider/developer.
22. Total acreage within the proposed subdivision.
23. \*Total number of lots.
24. \*\*Total area within road rights-of-way and length of roads.
25. \*\*Statement 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 until formally accepted for maintenance by the County under separate Order.
26. \*Name of proposed subdivision, said name shall not conflict in spelling, pronunciation, or in any way with the name of any other subdivision within Polk County, unless the proposed subdivision is contiguous to an existing subdivision and is an additional phase of that development.

27. \*\*Names of roadways, said names shall not duplicate any other streets within Polk County unless they are extensions of said streets, and comply with requirements of 9-1-1 addressing regulations (see Appendix I).
28. \*Statement from surveyor or engineer regarding presence of wells (water, oil, and natural gas). If wells are present, location of all wells and a statement that all unused wells are capped or plugged. If no wells are present in the subdivision, so state in the notes.
29. \*Name and address of a properly licensed Texas surveyor, with seal of said surveyor, of all survey points actually conducted upon the ground.
30. \*\*Name and address of a properly licensed engineer, under seal of said engineer, certifying all design/engineering requirements of these regulations.
31. Location and size of all proposed drainage structures.
32. \*\*Location, size, and proposed use of all easements required for the proper drainage and/or utility service.
33. \*\*Location, type and dimensions of all existing easements.
34. \*Statement that "*This property [is/is not] located within the municipal limits or ETJ boundaries of any community*".
35. \*Statement of how utilities will be provided to the development, including names of utility companies, and a written statement from the respective utility that it is able to provide such services to the development. *i.e., water, sewer, power, etc.* If none are available, a statement so indicating shall be placed on the plat.
36. Certification from a licensed professional engineer regarding the method for providing:
  1. Connection to an existing public water or sewer system;
  2. Creating a new public water or sewer utility that complies with requirements of the Texas Commission on Environmental Quality (TCEQ); or
  3. Installing wells that meet public drinking water standards or septic systems that meet on-site sewerage facility requirements of the state;
  4. A statement that the water and wastewater facilities will accommodate ultimate development of the tracts for a minimum of 30 years.
37. \*Description of monument used to mark all boundaries, lot, and block corners, and all points of curvature and tangency on street rights-of-way.
38. An attached original tax certificate from each taxing unit with jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the real property.

39. \*Acknowledgement and certificate of dedication by the Owner/subdivider/developer (see Appendix C)
40. \*Certificate of Recording (see Appendix D)
41. Water Supply Certification (see Appendix E)
42. \*Certificate of Surveyor (see Appendix F)
43. \*\*Certificate of Engineer (*Attendance may be required*) (see Appendix G)
44. \*Certificate of County Floodplain Administrator's Approval (see Appendix H(1)) **and (if applicable)** \*\*Certificate of Designated Representative's Approval (see Appendix H(2))
45. Subdivision and/or Road Name Add/Change Request Form (see Appendix I)
46. \*\*Certificate of Road Maintenance (see Appendix J OR K)
47. \*Certificate of County Approval of Plat (see Appendix L)
48. County Permit to Construct Driveway if needed (See Appendix M)
49. \*\*Lienholder's Acknowledgement (See Appendix N)
50. \*\*Revision to Plat (See Appendix O)
51. Notice of Utility Line Installation in County RoW (See Appendix P)
52. Cattleguard specifications, if applicable (See Appendix Q)
53. Typical County Road Cross-Section. (See Appendix R)
54. Summary of County Road Standards (See Appendix S)
55. Development Fees (See Appendix T)
56. Affidavit for Recordation of Tax Certificate (See Appendix U)
57. Proposed Articles of Incorporation and By-Laws of the Homeowner's Association or other entity responsible for road maintenance in the event the Owner/subdivider/developer proposes to use privately maintained roads.
58. Subdivision Construction Agreement Form (See Appendix V)

All fees related to the filing of a plat shall be paid to the County Clerk before submission of the Plat to the County Judge's office for review. Fees are located in Appendix T of this Subdivision regulation:

## **FILED PLAT**

Upon a determination that the Plat Application is suitable for consideration, the Owner/subdivider/developer shall revise the plat in accordance with the recommendations or (requirements) of the Commissioners Court and shall cause to be prepared a Plat for filing of record of the proposed subdivision, an original and five (5) copies of which shall be supplied to the Court for distribution, such plat having incorporated any and all changes.

In addition, the Owner/subdivider/developer shall submit with the Plat the following:

1. Proposed restrictive covenants.
2. Tax Certificate showing all taxes are currently paid on the property to be subdivided. These would include Rollback Tax Receipts, if applicable.
3. The proposed Articles of Incorporation and By-Laws of the Homeowner's Association or other entity responsible for road maintenance in the event the Owner/subdivider/developer proposes to use privately maintained roads.
4. Construction Plans of all required streets and drainage improvements.
5. Road Construction Security, as specified herein.
6. A receipt from the Clerk's Office, showing the Plat Application fees have been paid.
7. Evidence that proposed access drives to/from (TxDOT) roadways (if applicable) meet the current Access Management Manual. Any location limits and shared driveways required to meet TxDOT standards must be noted on the plat.

## **REVISION TO PLAT**

The owner of an existing lot or lots in a platted recorded subdivision may apply for cancellation, revision, or amendment by the owners thereof in conformance with these Regulations and Sections 232.008, 232.0083, 232.0085, 232.009, 232.0095, 232.010, or 232.011 of the Texas Local Government Code and upon approval by the Commissioners Court of the subdivision plat. Upon receipt of a written application for the change, the Commissioners Court will provide notice of the requested change as set out in the applicable section of the Texas Local Government Code. The application shall include a revised plat or part of a plat that indicates changes made to the original plat.

All requests for cancellation, revision, or amendment of an existing plat require a Public Hearing. The following steps must be taken prior to the Public Hearing:

1. The County will provide a minimum of 30-day notice in the Polk County Enterprise at the developer's expense.
2. The developer will send certified letters, return receipt requested at private expense, to the Home/Property Owner's Association (if applicable) and all property owners in the subdivision within 400 feet of the re-subdivided property. An additional copy of this letter and all certified returned receipts will be sent to the Polk County Judge.

3. The developer will place signs printed in an easily readable font and type size next to all adjacent streets, placed by 300-foot intervals, to include the following language:
  - (1) The Commissioners Court of Polk County, Texas will conduct a public hearing at \_\_\_\_ on \_\_\_\_ (day), \_\_\_\_ (month) \_\_\_\_ (date), \_\_\_\_ (year) in the Commissioners Courtroom located at \_\_\_\_ to discuss and consider
  - (2) REQUEST TO \_\_\_\_\_  
(print the public hearing notice item as provided by the Polk County Judge's Office).
  - (3) The requested re-plat may be inspected during normal business hours (Mon-Fri 8am-5pm) in the Polk County Judge's Office. Any person who is interested in the property and who wishes to protest the proposed re-plat should appear before the Commissioners Court at the time specified herein.
4. The developer will provide pictures of the posted signs and an affidavit signed by the person that posted the signs to the Court certifying that the signs were posted for a minimum of 21 days immediately preceding the Public Hearing.

After all required notices have been given and the Hearing has occurred, the Commissioners Court may adopt an Order to permit the revision of the subdivision plat upon finding that:

1. the revision will not adversely affect the rights of any other subdivision owner/subdivider/developer, or
2. each owner/subdivider/developer whose rights may have been adversely affected has agreed to the revision.

Upon approval by the Commissioners Court, the revised plat shall be filed with the County Clerk to be recorded in the Real Property Records.

A Revision of Plat fee of \$50.00 per plat, plus \$5.00 per plat for Records Preservation fee, and \$1.00 per plat for Courthouse Security Fee shall be paid at the time of application. A deposit of \$400 plus the required retainer for engineer review (see Appendix T) shall be paid to Polk County at the time of application. The deposit shall be used towards the cost of notice for publication and engineer review fees, and any amount remaining will be returned to the developer. All fees shall be paid prior to Commissioners Court approval.

## **Section 8: POLK COUNTY WATER AVAILABILITY REGULATIONS**

The Polk County Commissioners Court has adopted the Texas Water Development Board Model Subdivision Rules, Minimum Standards, Subchapters A and B (Counties), and Appendices as attached hereto beginning on page 76, current as of July 23, 2024. The most current revision of the Rules will be used should any discrepancy exist.

The purpose of these rules is to promote the public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of Polk County, and to apply the minimum state standard for water and wastewater facilities to these subdivisions.

The Model Subdivision Rules will apply only to subdivisions of land into two or more lots of five acres or less intended for residential purposes. Lots of five acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds. The Model Subdivision Rules will govern requirements for water and wastewater facilities only. All other

subdivision infrastructure and platting requirements will be governed by the Polk County Subdivision Regulations.

If any conflicts in requirements exist, then the Model Subdivision Rules will apply.

**THE POLK COUNTY COMMISSIONERS COURT MAKES NO REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, THAT SUBDIVISIONS THAT COMPLY WITH THESE WATER AVAILABILITY REGULATIONS WILL MEET THE CURRENT AND/OR FUTURE WATER NEEDS OF PURCHASERS OF PROPERTY WITHIN THE SUBDIVISION.**

**A. Applicability**

These Model Subdivision Rules apply to all applications for approval of a plat for a Subdivision wholly or partially within Polk County, Texas, pursuant to the Polk County Subdivision Regulations, except as exempted hereafter.

Exemptions to Water Availability Regulations:

- a. Subdivision of property where platting is not required by the Polk County Subdivision Regulations;
- b. Subdivision of property in which all lots are more than 5 acres.

**B. Adoption of Model Rules under Chapter 16 of the Texas Water Code**

General Platting Requirements apply when the provisions of the General Platting Requirements are equal to or more restrictive than the Model Rules. To the maximum extent possible, the Texas Model Subdivision Rules, 31 Texas Administrative Code 364 are incorporated into this subdivision regulation, unless the General Platting Requirements exceed the requirements of the Model Subdivision Rules, in which case the more stringent rule shall apply.

The type of development and use contemplated will determine the size, width, depth, shape, and orientation of tracts or lots. Tracts or lots shall be appropriate for the area of the County, and the type of development contemplated, as follows:

1. When a private water well and an approved on-site sewage facility is used, a minimum tract size of two (2) acres is required to lessen the accidental contamination of adjacent water wells (or more if required by TCEQ or Texas Water Development Board).
2. When a TCEQ approved public ground water supply system and an approved on-site sewage facility is used, a minimum tract size of one (1) acre is required to limit the possible accidental contamination of public water supplies (or more if required by TCEQ or Texas Water Development Board).
3. When an owner/subdivider/developer proposes to supply drinking water by connection to any existing public water system, they must provide a written agreement with the retail public utility providing that the water utility will have the ability to supply the total flow anticipated from the

ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years. The agreement must reflect that the Owner/subdivider/developer has provided for the cost of any necessary connection equipment, expansion of facilities, 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 plat. Written proof that such an agreement has been executed and approved by the retail public utility shall be submitted with the plat application.

4. Where there is no existing retail public utility to construct and maintain the proposed water facilities, the Owner/subdivider/developer shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC §§ 290.38-290.47 and §§ 290.101-290.112, and as may hereinafter be amended. If groundwater is to be the source of the water supply, the Owner/subdivider/developer shall have complied with the requirements of any Groundwater District with jurisdiction. If surface water is the source of supply, the Owner/subdivider/developer shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty (30) years.

5. Non-Public Water Systems.

- a. Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, a test well or wells, one for every 100 acres, located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the Owner/subdivider/developer and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The Owner/subdivider/developer shall have complied with the requirements of the Any Groundwater District with jurisdiction. 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:

- i. Without any treatment of the water; or
    - ii. With treatment by an identified and commercially available water treatment system.

- b. Owner/subdivider/developer may use existing wells or test wells if supported by a signed statement from an engineer currently licensed in the State of Texas that they are representative of the quantity and quality of water generally available from the aquifer to supply each lot of the subdivision.

6. Transportation of Potable Water.

- a. 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 Owner/subdivider/developer does not constitute an emergency.

## **C. Wastewater Disposal**

The following provides minimum standards for the development of wastewater disposal.

### **1. Organized Sewerage Facilities.**

- a. Owner/subdivider/developers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the Texas Commission on Environmental Quality in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 217 from the Texas Commission on Environmental Quality.
- b. Owner/subdivider/developers who propose to dispose of wastewater by connecting to an existing permitted facility must execute 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 Owner/subdivider/developer 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 plat. Engineering plans signed and sealed by a professional engineer registered in the State of Texas, for the proposed wastewater collection lines must comply with 30 TAC Chapter 317. Written proof that such an agreement has been executed and approved by the retail public utility shall be submitted with the plat application.
- c. Lot sizes for owners/subdivider/developers who provide an organized wastewater collection and treatment system under paragraphs (a) or (b) of this section shall be not less than one-half acre, within the wastewater disposal capacity, or no less than one acre where capacity cannot be guaranteed for greater densities of population or construction.

### **2. On-site Sewerage Facilities.**

- a. On-site sewerage facilities, which serve single-family or multi-family residential dwellings with anticipated wastewater generations of no greater than five thousand (5,000) gallons per day, must comply with 30 TAC Chapter 285.
- b. Proposals for sewerage facilities for the disposal of sewage in the amount of five thousand (5,000) gallons per day or greater must comply with 30 TAC Chapter 217.
- c. The Texas Commission on Environmental Quality 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 and the County OSSF Order. 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.

- d. Site evaluation described by 30 TAC § 285.30 will be required for plat approval.

### **3. Greywater Systems for Reuse of Treated Wastewater.**

- a. Organized or municipal sewerage systems. Any proposal for sewage collection, treatment, and disposal, which includes greywater reuse, shall meet the minimum criteria of 30 TAC Chapter 210 promulgated and administered by the Texas Commission on Environmental Quality.
- b. On-site sewerage facilities. Any proposal for on-site sewage disposal, which includes provisions for greywater use, shall meet the minimum criteria of 30 TAC Chapter 285.

### **4. Sludge Disposal.**

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

## **Section 9: DESIGN STANDARDS**

### **LOTS**

- a. **No Conveyance of Lots:** Conveyance of Lots depicted on a Plat Application shall not be permitted until the Plat has been approved and the record plat filed with the County Clerk.
- b. Setbacks. Where a County road abuts the subdivision, the owner shall set back the subdivision line twenty-five (25') feet from the edge of the right-of-way, and fifty (50') feet from the edge of the right-of-way on all state and federal roads.
- c. Setbacks from adjacent property lines shall be a minimum of five (5) feet and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the Order or Rules of the County shall control to the extent greater setbacks are therein required.
- d. The number of Single-Family Dwellings per Lot. No more than one (1) single-family detached dwelling shall be located on each lot. A notation of this restriction shall be placed on the face of the 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 the determination of proper water and wastewater utility type and design.
- e. If the Owner/subdivider/developer selects to use a TCEQ approved public groundwater or a surface water system and/or a TCEQ approved sewage system, all infrastructure costs shall be the sole responsibility of the Owner/subdivider/developer and shall be included in the guarantee of a performance bond to be posted with the County Judge.

f. Water Well and Septic Setback Lines shall be in compliance with the Texas Commission on Environmental Quality. See Texas Administrative Code Chapter 76, Water Well Drillers and Water Well Pump Installers and, Chapter 285, On-Site Sewage Facilities.

**THE SET BACK LINES DENOTED ABOVE ARE A REQUIREMENT OF THE  
POLK COUNTY SEWAGE FACILITY REGULATIONS.**

**Section 10: EASEMENTS**

**A. Utility Easements.** In residential areas, easements shall be provided for the installation of utilities. Any other requirements will be determined by the Commissioners Court.

1. Utility easements shall be a minimum of ten feet (10') in width, and normally located along a property or lot line. It shall be the duty of the owner/subdivider/developer to ensure that all easements are of the proper width and location to serve the using utility companies.
2. Utility lines crossing a road shall be installed a minimum of twenty-four inches (24") below the ditch line or a minimum of thirty-six inches (36") below the crown line of the road, whichever is greater. All lines carrying liquid products must be encased in metal or PVC schedule 40 with a minimum length of five feet (5') from ditch line to ditch line.
3. If new roads are constructed over existing petroleum pipeline crossings, the pipe lines must meet the following requirements:
  - a. The encased pipe must be at least three feet (3') below the deepest proposed ditch grade.
  - b. non-cased pipe (of extra wall thickness meeting Federal Regulations) must be at least four feet (4') below the deepest proposed ditch.
4. No road will be accepted for maintenance by Polk County, which contains a petroleum pipeline within the right-of-way, other than crossing pipelines.

**B. Drainage Easements.** Where the subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines for such water course and of sufficient width to convey all storm and flood water flowing through as may be determined by the Commissioners Court through its authorized representative, to accommodate further width or construction and allow access for maintenance.

**The County does not provide maintenance for drainage unrelated to road maintenance within the county road right-of-way.**

**C. Storm Water Discharge Permit**

**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 one-acre total land area or areas which are not part of a larger common plan of development. If area of**

disturbance is five acres or more, Notice of Intent (NOI) 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 owner/subdivider/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.

1. The area identified as drainage easement will be subtracted from the raw lot size in determination of acceptable lot size for construction.
2. Culvert design shall be sized by a Registered Professional Engineer and a map or list containing the size of each pipe shall be attached to the plat. The owner/subdivider/developer will be held responsible for notifying builders and lot owners of this requirement and ensuring the property sized culvert is installed.
3. Drainage easements shall generally be located along the existing drainageway, and shall meet the following standards:
  - a. open channels with top widths from zero feet (0') to fifty feet (50') require top width plus twenty-five feet (25').
  - b. open channels with top widths greater than fifty feet (50') require top widths plus twenty-five feet (25') each side.
  - c. Enclosed pipes require twenty feet (20') minimum width.
  - d. All easements shall be so designed to allow maintenance equipment to enter the easement and be able to perform the necessary work.

Generally, it is desired that surface drainage from private property be taken to roads and streets or drainage courses as quickly as possible, but the practice of using roads and streets as major drainage courses is prohibited.

Design of channels shall consider velocities and shall be shaped, graded, lined, or protected to minimize or prevent scour and erosion from excessive velocities. This requirement shall extend to roadside drainage ditches, often called "borrow ditches." Seeding of native grasses or other plants as approved by the Commissioners Court shall be required to deter erosion.

All road culverts shall be of permanent type, either concrete, metal or Advanced Drainage System ("ADS"). Drainage calculations shall be made using Talbot's Formula or other methods satisfactory to the Commissioners Court. Drainage structures shall be designed using a ten (10) year flood frequency. The size of the culverts shall be subject to the approval of the Commissioners Court, but under no circumstances shall they be less than fifteen inches (15") in diameter.

All roadways crossing streams or roadways subject to flooding must be riprapped on both sides as specified by the County. Concrete used as riprap must test 2500 psi.

## **Section 11: FLOOD PLAINS**

Subdivisions that are located in a flood zone as shown on the current Flood Insurance Rate Map (FIRM) for Polk County will have the following requirements:

1. Permanent type bench marks shall be set in appropriate locations with the description and elevation shown on the plat. The elevation of the benchmark shall be tied to a bench mark shown on the FIRM panel.
2. A note on the plat stating, "a flood permit will be required from Polk County for any construction in the flood plain."
3. All subdivision proposals shall be consistent with Polk County's Flood Plain Regulations.
4. Contours at one-foot (1') intervals shall be shown on the plat.
5. The finished floor elevation must be shown for each lot located in the flood plain.
6. The floodplain area of each lot shall be subtracted from the overall lot size to determine the minimum lot size.
7. 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.
8. Any water well drilled in a flood plain will comply with TDLR standards for water well completion in a flood plain.

## **Section 12: ROADWAYS**

Approval of a subdivision plat by the Polk County Commissioners Court does not constitute acceptance of the roads shown thereon for county maintenance.

All roads, whether maintained by the County, by the individual property owner, or by a homeowner's association, shall be constructed at the owner/subdivider/developer's expense in accordance with these Regulations and shall be classified as one of the two following types of roads:

- a. Publicly dedicated and to be maintained by Polk County, after Commissioners Court acceptance for maintenance, with construction in accordance with the Specifications outlined in these Regulations. If the proposed road is to be tied into at least one public road with an impervious surface, the minimum pavement surface of the proposed road shall be two course surface treatment of asphalt and aggregate.
- b. Private and to be maintained by a Homeowner's Association or property owners in perpetuity (or until constructed to the then applicable County standards for acceptance of maintenance, and accepted for maintenance by the Commissioners Court) and constructed in accordance with the Specifications outlined in these Regulations. Impervious surface is not required.

Polk County reserves the right to deny an application for acceptance of any subdivision street or road for permanent public maintenance by the County. No roads or streets will receive consideration for final **acceptance** into the County Road System by the Commissioners Court until at least **two (2) years** after the original construction of streets and roads are completed. In Subdivisions in which insufficient development or building has taken place after the two-year period and where there has been insufficient use of the streets and roads to ensure their stability, then such streets and roads will not be accepted by the Commissioners Court until such time as there is sufficient development to ensure street and road stability. Sufficient development shall be defined as fifty percent (50%) occupancy of the total lots or tracts within said subdivision. Upon final approval, title to all streets and roads shall be conveyed to the County for their maintenance by a Warranty Deed, or Grant of Right-of-Way, in a form which shall be acceptable to the Commissioners Court. Accompanying such deed shall be an adequate description of streets and roads, either by reference to the approved subdivision plat or by field notes prepared by a Registered Professional Engineer from a survey made on the ground. **From the date of adoption of this Order forward, all streets and roads in any subdivision for which a plat has been filed shall adhere to the Road Construction Specifications which follow, whether or not an eventual request for County maintenance is planned.**

Each plat will contain the following notation: **Polk County shall not repair, maintain, install, or provide any streets or roads in any subdivision for which a 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 Polk County 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 Commissioners Court. Approval of the subdivision plat for filing does not indicate any agreement or understanding that Polk County will assume responsibility for the maintenance of roads, streets, alleys, or other areas dedicated to public use on the plat.**

In subdivisions that are developed as “gated communities,” it is the responsibility of the Owner/subdivider/developer, property/homeowner’s association and/or the individual property owners to provide a means of access to emergency responders.

The area of any lot within the road right-of-way shall be subtracted from the overall lot size to determine the minimum lot size.

#### **Road Construction Specifications (see Appendices R and S and Bond Requirements)**

1. Local Streets or roads as defined herein shall conform with the following:

Minimum right-of-way.....	60 feet
Minimum crown width of roadway/pavement.....	20 feet
Minimum width of base material.....	22 feet
Minimum depth of compacted base material under pavement.....	6 inches
Minimum cross-slope.....	2.5%
Minimum width of the curbed section, when curbed.....	36 feet

2. Local streets or roads shall have a minimum width of the right-of-way of sixty feet (60') unless more is needed for drainage purposes. The base course of the roadway section shall be a minimum of twenty-two feet (22') Type A Grade 2 flexible base compacted to ninety-

five percent (95%) modified proctor density at a depth of six inches (6"). The subgrade shall be chemically stabilized to a depth of six inches (6") and compacted to ninety-five percent (95%) standard proctor density. The base course shall be side-dressed with a compacted flexible base to the edge of the subgrade.

3. All roads or streets more than one hundred feet (100') in length shall either be connected at both ends to a dedicated street or be provided with a turnaround having a minimum radius of forty feet (40') and a minimum right-of-way radius of sixty feet (60').
4. All roads or streets shall have a minimum grade of a four-tenths percent (0.4%). Grades of more than ten percent (10%) shall only be allowed upon approval of the County.
5. A proposed subdivision that adjoins or encompasses an existing public street, that does not conform to the minimum right-of-way requirements of these regulations, shall provide for the dedication of additional right-of-way along either or both sides of the said street so that the minimum right-of-way required by these regulations can be established. If the proposed subdivision abuts only one side of said street, then a minimum of half of the right-of-way shall be dedicated by such subdivision.
6. Where any portion of a road or street has been dedicated in an adjoining subdivision, adjacent to and along the common property line of the two subdivisions, enough width of right-of-way must be dedicated in the new subdivision to provide the minimum width specified herein.
7. Roads or streets which are a continuation of any existing road or street shall take the name of the existing road or street.
8. All roads or streets preferably shall intersect at a ninety-degree angle. Where this is not possible, the right-of-way, on the side of the acute angle, shall be rounded with a curve or a cut-back, but in no case, shall the curve have less than a twenty-five-foot (25') radius.
9. New roads or streets, which are a continuation of an existing road or street, shall be a continuation, without offset, of the existing road or street.
10. Where roads or streets in an adjoining subdivision end at the property line of an existing subdivision, the said roads or streets shall be continued throughout the new subdivision. Where there are no adjacent connections platted, the roads in the new subdivision shall be a reasonable projection of the roads or streets in the nearest subdivisions.
11. No decorative squares, trees, "islands", ornamental entrances or any other obstruction to traffic shall be constructed or preserved within the right-of-way of a road dedicated to the public without written permission of the Commissioners Court. If landscaping and/or irrigation is proposed within the right-of-way, the owner/subdivider/developer 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 and/or irrigation system. This body shall have assessment authority to ensure the proper funding for maintenance.
12. The entire right-of-way will be cleared of all timber, roots, brush, fences, boulders, or other

obstructions, unless a variance is granted by the Commissioners Court. Upon completion of all construction, the right-of-way shall be seeded with native grasses, or other plants as approved by the Commissioners Court.

**13. Sub-grade.** The sub-grade shall be compacted by ordinary compaction by any method, type, and size of equipment that will give the required compaction. The sub-grade must be inspected and approved either by the Commissioners Court, the individual Commissioner for that precinct, or a designated Court representative prior to any application of base material.

**14. Base Material.** Base Material shall be delivered in vehicles of uniform capacity and it shall be the responsibility of the Contractor that the required amount of the specified material shall be delivered in each 100 feet station. The material shall be scarified, thoroughly wetted, mixed, manipulated, and bladed so as to secure a uniformly wetted material and pulled in over the surface in courses and set under the action of blading and rolling. All irregularities, depressions, or weak spots which develop shall be corrected immediately by scarifying the area affected, adding suitable material as required, reshaping and re-compacting by sprinkling and rolling. The base must be inspected and approved by the Commissioner for that precinct or a designated Court representative prior to the application of any surface treatment.

**Set-Back Lines from roadways pursuant to Chapter 232 and 233,  
Texas Local Government Code**

1. Side lot line should normally be at a ninety-degree angle to the street.
2. All straight lines shall clearly show the length of the line, and the plat shall show enough information to readily determine the bearing of all lot lines.
3. All curved lot lines shall clearly show the length of the arc and radius of the curve or show enough information on the plat to readily determine the radius of the curve.
4. Building and set-back lines shall be fifty feet (50') from the edge of the right-of-way on all state and federal roads, and twenty-five feet (25') on all other roads. Building and set-back lines shall be shown on all plats. If the above set-back lines differ from those adopted by a municipality with extraterritorial jurisdiction, the set-back of the municipality shall apply.
5. 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 placements of the mailbox outside the three-foot (3') minimum is not possible, a mail box of "breakaway design" should be used.
6. All mailboxes within the County right-of-way shall meet the current TXDOT standards.
7. 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.

**Cattle Guards.** The Commissioner in whose precinct the subdivision is located may authorize the installation of cattle guards. When permitted, a cattle guard shall not be less than six (6) feet in length, measured along the centerline of the road, and of width not less than two (2) feet greater than the width of the pavement or a maximum width of twenty (20) feet. Units may be prefabricated or welded in place and

shall be built to support any and all traffic that may be encountered on said roadway. Attached hereto as Appendix Q are specifications for cattle guards that will be approved by the Commissioners Court.

**Inspections.** Proposed roads and drainage will be inspected by an authorized representative of the Commissioners Court and at reasonable intervals as directed by the Commissioners Court. The expense of these inspections will be the responsibility of the Owner/subdivider/developer.

**Other Provisions.** In a subdivision where water lines or other utilities are installed in rights-of-way, they shall be located off and away from the roadways (paved center portion and shoulders). Fire hydrants shall be equipped with connections compatible with local Fire Department equipment.

Should roads and streets be dedicated to and accepted by Polk County so that future maintenance responsibilities become a function under the Polk County Commissioners Court, the installation of any further water or utility lines, side roads, *etc.* on right-of-way shall be prohibited unless expressly permitted in writing by the Commissioners Court. (See Appendix M: Permit to Construct Within Right-of Way and Appendix P: Notice of Proposed Utility Line Installation)

Subdivisions must have control signs, guardrails, and other safety features installed at required locations on all subdivision rights-of-way dedicated for public use. Culverts and bridges shall be at least as wide as the roadway portions (base material) of the streets and roads. Bridge abutments or other drop-offs located at the edge of the shoulder portions of any road or street shall be indicated by installation of protective posts or other devices equipped with reflectorized markers.

Right-of-way dedicated to public use shall be kept clear of tall weeds and brush so that property lines, drainage ditches, and hazardous conditions shall be readily distinguishable. Large trees which lend natural beautification to an area may be left in place on a right-of-way provided that safety on the streets and roads is not impaired.

The installation of any traffic control sign, such as denoting speed limits, yield right-of-way, stop signs, stop ahead signs, *etc.*, on all roads, streets, and thoroughfares dedicated to public use in subdivisions in Polk County whose roads have been accepted by the County must be approved by the Commissioners Court and shall be coordinated with the precinct Commissioner concerned and with the Polk County Sheriff's Department, which shall have control of law enforcement activities on all roads, streets, and thoroughfares dedicated to public use in subdivisions in Polk County whose roads have been accepted by the County. Speed limit designations of public streets should be assigned in accordance with street and road conditions. Thoroughfares not dedicated to public usage shall be clearly marked as such.

In cases where the new roads and streets as platted intersect with established roads and streets, the new roads and streets shall be, if practicable, a continuation without offset of any intersecting road or street on the opposite side of said established road or street.

Adequate off-street parking space must be provided in business or commercial areas.

**Rural Addressing Signage.** The initial expense of street sign placement in new subdivisions shall be the responsibility of the Owner/subdivider/developer, with sign type and location in compliance with County standards and approved by the Polk County Commissioners Court as part of acceptance of the subdivision plat.

## **Section 13: FINAL INSPECTION**

The owner/subdivider/developer, upon completion of drainage, roads, streets or other facilities intended for the use of the public, or purchasers or owners of lots fronting or adjacent there to, shall request from the County a final inspection. The precinct Commissioner or their designee will inspect, within 10 days, the completed work for compliance. The owner/subdivider/developer will be notified in writing, within 10 days of the final inspection, of approval or any work not found in compliance with these Subdivision Regulations. If substantial patching is required during the two (2) year maintenance period, roads or streets must be resurfaced at owner/subdivider/developers' expense.

### **PENALTIES FOR VIOLATION**

1. The Commissioners Court of Polk County will cause an employee of the court, or any other person or persons it so designates, to review periodically deeds or sales contracts being recorded in the County Clerk's office to see that any subdivision affected thereby shall comply with requirements of these regulations and state law.
2. If deeds, contracts of sale, transfers of title, or other transactions do not comply with the plat requirements as set forth in these regulations and state law, the Commissioners Court of Polk County or its representative can so notify the party selling or transferring title in whole or in part to comply with these regulations.
3. In the event the notified party refuses to comply with said requirements, the Commissioners Court of Polk County can take appropriate action to obtain compliance.
4. A person commits an offense if the person knowingly or intentionally violates a requirement of these Regulations, including the Road Design and Construction Specifications incorporated into these Regulations and any appendices attached to these regulations, and incorporating the Polk County for On-Site Sewage Facilities Regulations. An offense under this provision is a Class B misdemeanor punishable by fine or imprisonment or both.
5. At the request of the Commissioners Court, the County Attorney or legal counsel may file an action in a court of competent jurisdiction to:
  - a. Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations; and/or
  - b. Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by the Commissioners Court under these Regulations.
  - c. Where appropriate, criminal penalties may apply and the County will seek such penalties for knowing, willful or reckless violations of these rules and regulations.

Adoption Date: July 23, 2024

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Sydney Murphy  
County Judge, Polk County, Texas

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Schelana Hock  
County Clerk, Polk County, Texas

## **Appendix A**

### **PLAT APPLICATION GUIDELINES**

1. Developer must obtain current Subdivision Regulations from Precinct County Commissioner or website.
2. Developer must complete Application for Plat Approval prior to meeting with County Commissioner.
3. Developer must meet with the appropriate County Commissioner to discuss proposed subdivision design.
4. Determine if a Preliminary Engineering Report is required. (Will be required for subdivisions with lots less than 5 acres that do not have access to public water or sewer service, design of culverts or design of drainage channels or ditches.)
5. Developer must meet with County Permit Inspector (Appendix H) and with 911 Rural Addressing (Appendix I) prior to preparing the Plat.
6. Prepare the Plat as directed in Section 7 and the PLAT APPLICATIONS GUIDELINES (see Appendix A).

Submit the Plat digitally with the Application to the County Judge's Office at least 14 days prior to the next Commissioners Court meeting: Applications will only be accepted on Wednesdays from 8:00 AM - 12:00 PM and 1:00 PM - 4:30 PM.

The Plat & Application will be reviewed by the Precinct Commissioner and County Engineer.

Address all comments and recommendations made by the Precinct Commissioner and County Engineer. Then submit a plat consisting of 18x24 Translucent Bond Medium Paper or Mylar, printed in black ink on white material and (5) copies of the same size on white paper.

If the property lies within the ETJ of a city, the Owner shall comply with the platting procedures of the city, unless waived.

## Appendix B

### POLK COUNTY SUBDIVISION PLATTING CHECKLIST

\*Denotes items that must be shown on the signed plat.

\*\*Denotes items that must be shown on a signed plat if applicable.

\*Subdivision name: \_\_\_\_\_

**YES    NO    N/A**

- \*Survey name(s), Abstract number(s), and Line(s)
- \*Lot & Block Numbers
- \*All Lot Dimensions
- \*Acreage, to two decimal points, of all lots and tracts
- \*\*Proposed street names, pre-approved by the 9-1-1 Coordinator.  
[Location for street address signage will be furnished by Polk County in accordance with applicable regulations.]
- \*\*Street right-of-way widths.
- \*\*Tangent lengths, centerline radii, names, and right-of-way dimensions for all proposed and existing streets.
- \*\*Areas proposed for recreational use, i.e., courses parks, greenbelts, etc.
- \*\*Transfer of rights-of-way or easements, including any alleys and/or utility easements.
- Proposed land use of all lots being subdivided, if not residential.
- \*Real Property Record volume and page reference and names of all current owners or subdivision names/lots/blocks of contiguous property surrounding the proposed subdivision.
- Land use of all contiguous tracts, i.e., undeveloped, subdivided, etc.
- All major topographic features on or adjacent to the property as well as elevation contours at no greater than one-foot (1') intervals if in a floodplain, and no greater than five-foot (5') intervals if not in a floodplain. Elevation contours are not required for a Minor Subdivision.
- \*Areas of Special Flood Hazard as shown by the current Flood Hazard Boundary Maps as authorized by FEMA. Each tract shall be inspected and flood plain determination made on its own merits. If no areas of

Special Flood Hazard are present in the subdivision, so state them in the notes.

- 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.
- \*\*Master Development Plans [If the subdivision is a portion of a larger tract of land, the exterior boundary of the parent tract shall be shown on the Plat with future plans for the remaining property noted. If the parent tract is larger than 320 acres, the Plat may be prepared at a scale no smaller than one inch (1") equals one thousand feet (1000'), with the areas, proposed to be subdivided detailed at a scale no smaller than one inch equals two hundred feet (1" =200').]
- \*North directional indication arrow.
- \*Vicinity or Location map showing the proposed subdivision in relation to major roads, towns, cities, and topographic features.
- \*Names and addresses of the current owner/subdivider/developers of the subdivision property, including Real Property Record volume and page references.
- \*Name and address of the proposed owner/subdivider/developer.
- \*Total acreage within the proposed subdivision.
- \*Total number of lots.
- \*\*Total area within road rights-of-way and length of roads.
- \*\*Statement 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 until formally accepted for maintenance by the County under separate Order.
- \*Name of the proposed subdivision, said name shall not conflict in spelling, pronunciation, or in any way with the name of any other subdivision within Polk County unless the proposed subdivision is contiguous to an existing subdivision and is an additional phase of that development.
- \*\*Names of roadways, said names shall not duplicate any other streets within Polk County unless they are extensions of said streets and comply with requirements of 9-1-1 addressing regulations.

- \*\*Statement from Surveyor or Engineer regarding the presence of wells (water, oil, and natural gas). If wells are present, the location of all wells and a statement that all unused wells are capped or plugged.
- \*Name and address of a properly licensed Texas surveyor, with the seal of said surveyor, of all survey points actually conducted upon the ground.
- \*\*Name and address of a properly licensed engineer, under the seal of said engineer, certifying all design/engineering requirements of these regulations.
- Location and size of all proposed drainage structures.
- \*\*Location, size, and proposed use of all easements required for the proper drainage and/or utility service.
- \*Statement that “This property [is/is not] located within the municipal limits or ETJ boundaries of any community”.
- \*Statement of how utilities will be provided to the development, including names of utility companies, and a written statement from the respective utility that it is able to provide such services to the development. i.e., water, sewer, power, etc. If none are available, a statement so indicating shall be placed on the plat.
- \*Description of monument used to mark all boundaries, lot, and block corners, and all points of curvature and tangency on street rights-of-way.
- \*\*Driveway restrictions necessary to meet TxDOT location requirements.
- An attached original tax certificate from each taxing unit with the jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the real property.
- Proposed Articles of Incorporation and By-Laws of the Homeowner’s Association or other entity responsible for road maintenance in the event the Owner/subdivider/developer proposes to use privately maintained roads.
- An attached copy of Groundwater permit(s).
- \*\*Public Water System Identification Number.

**Certification from a licensed professional engineer regarding the method for providing:**

- Connection to an existing public water or sewer system;

- Creating a new public water or sewer utility that complies with the requirements of the Texas Commission on Environmental Quality (TCEQ); or
- Installing wells that meet public drinking water standards or septic systems that meet on-site sewerage facility requirements of the state;
- A statement that the water and wastewater facilities will accommodate the ultimate development of the tracts for a minimum of 30 years.

## Appendices

- \*Appendix C - Acknowledgement and certificate of dedication by the Owner/subdivider/developer
- \*Appendix D – Certificate of Recording (if applicable)
- Appendix E – Water Supply Certificate
- \*Appendix F – Certificate of Surveyor
- \*\*Appendix G – Certificate of Engineer
- \*Appendix H(1) – Certificate of County Floodplain Administrator’s Approval and \*\*Appendix H(2) – Certification of Designated Representative’s Approval
- Appendix I – Subdivision and/or Road Name Add/Change Request Form
- \*\*Appendix J – Certificate of Road Maintenance (when roads are to be retained as private roads)
- \*\*Appendix K – Certificate of County Road Maintenance Disclaimer
- \*Appendix L – Certificate of County Approval of Plat
- Appendix M – Permit to Construct Driveway in County RoW
- \*\*Appendix N – Lienholder’s Acknowledgement
- \*\*Appendix O – Revision to Plat
- Appendix P – Notice of Utility Installation in County RoW
- Appendix Q – Plans and Specifications for Cattleguard
- Appendix R – Cross Section Road Standards

- Appendix S – Summary of Road Standards
- Appendix T – Development Fees
- Appendix U – Affidavit for Recordation of Tax Certificate
- Appendix V – Subdivision Construction Agreement Form

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Signature of Reviewer

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Date of Review

**ADDITIONAL REQUIREMENTS:**

**ALL ITEMS ON THIS CHECKLIST MUST BE SUBMITTED TO THE COUNTY JUDGE'S OFFICE FOR THE APPLICATION TO BE CONSIDERED COMPLETE.**

**PLAT APPLICATIONS WILL ONLY BE ACCEPTED FOR CONSIDERATION EVERY WEDNESDAY BETWEEN 8:00 AM - 12:00 PM AND 1:00 PM – 4:30 PM IN THE COUNTY JUDGE'S OFFICE – 410 E. CHURCH STREET, SUITE E, LIVINGSTON, TX 77351.**

**INCOMPLETE APPLICATIONS AND THOSE SUBMITTED OUTSIDE OF THE NORMAL ACCEPTANCE DAY WILL BE RETURNED TO THE APPLICANT FOR RESUBMITTAL ON THE NEXT AVAILABLE DATE.**

## Appendix C (1)

**CERTIFICATE OF DEDICATION BY OWNER/SUBDIVIDER/DEVELOPER**  
(When owner/subdivider/developer is an Individual)

**THE STATE OF TEXAS**  
**COUNTY OF POLK**

**KNOW ALL MEN BY THESE PRESENT,** that I, \_\_\_\_\_, owner/subdivider/developer of \_\_\_\_\_ acres of land out of the \_\_\_\_\_ Survey, Polk County, Texas as conveyed to me by deed dated \_\_\_\_\_, and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Real Property Records of Polk County, Texas, **DO HEREBY SUBDIVIDE** \_\_\_\_\_ acres of land out of said Survey,

*(Note: if the subdivision lies in more than one survey, determine an acreage in each survey and repeat for each original survey within the subdivision)*

to be known as the \_\_\_\_\_ Subdivision, in accordance with the plat shown hereon, subject to all easements or restrictions heretofore granted and do hereby dedicate to the public (or "owners of the property shown hereon" for private streets) the use of the streets and easements shown hereon.

WITNESS MY HAND, this the \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

(Owner/subdivider/developer's name)

**THE STATE OF TEXAS** §  
**COUNTY OF POLK** §

**BEFORE ME**, the undersigned authority, on this day personally appeared \_\_\_\_\_, known by me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that (s)he executed the same for the purposes and consideration of therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this the \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_.

Notary Public in and for  
The State of Texas

## Appendix C (2)

**CERTIFICATE OF DEDICATION BY OWNER/SUBDIVIDER/DEVELOPER**  
(When owner/subdivider/developer is a Corporation)

**THE STATE OF TEXAS** §  
**COUNTY OF POLK** §

**KNOW ALL MEN BY THESE PRESENT,** that \_\_\_\_\_, a corporation organized and existing under the laws of the State of Texas, with its home address at \_\_\_\_\_ and owner/subdivider/developer of \_\_\_\_\_ acres of land out of the \_\_\_\_\_ Survey, in Polk County, Texas, as conveyed to it by deed dated \_\_\_\_\_ and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Real Property Records of Polk County, **DOES HEREBY SUBDIVIDE** \_\_\_\_\_ acres of land out of said Survey,

*(Note: if the subdivision lies in more than one survey, determine the acreage in each survey and repeat for each original survey within the subdivision)*

to be known as the \_\_\_\_\_ Subdivision, in accordance with the plat shown hereon, subject to any and all easements or restrictions heretofore granted and does hereby dedicate to the public (or "owner/subdivider/developer of the property shown hereon" for private streets) the use of the streets and easements shown hereon.

**IN WITNESS WHEREOF** the said \_\_\_\_\_ has caused these present to be executed by its \_\_\_\_\_, thereunto duly authorized, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

---

ATTEST: \_\_\_\_\_  
(Name, Title) \_\_\_\_\_ (Name, Title)

**THE STATE OF TEXAS** §  
**COUNTY OF POLK** §

**BEFORE ME,** the undersigned authority, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument as an officer of \_\_\_\_\_ and acknowledged to me that the foregoing was executed in such capacity as the act of said corporation for the purposes and considerations therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

Notary Public in and for  
The State of Texas

## Appendix D

## **CERTIFICATE OF RECORDING**

**THE STATE OF TEXAS**  
**COUNTY OF POLK**

I, \_\_\_\_\_, County Clerk of Polk County, Texas, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m., and duly recorded on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m., in the Real Property Records of Polk County, Texas in Volume \_\_\_\_, Page \_\_\_\_\_.  
  
*[Handwritten signature]*

**WITNESS MY HAND AND SEAL OF OFFICE** this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

---

**COUNTY CLERK  
POLK COUNTY, TEXAS**

## Appendix E

### WATER SUPPLY CERTIFICATE

“No structure in this subdivision shall be occupied until connected to either: an individual water well, the location of which has been approved by the Polk County Permit Office, a TCEQ-approved public water supply system (described below), or other domestic water supply subject to approval by the Polk County Commissioners Court.”

---

Permit Office

---

Date

---

Name of Public Water Supply System

---

Date

---

Signature & Title of Authorized Agent

Other Proposed Domestic Water Supply (Please specify): 

---

---

## Appendix F

## **CERTIFICATE OF SURVEYOR**

**THE STATE OF TEXAS**  
**COUNTY OF POLK**

**KNOW ALL MEN BY THESE PRESENT**, that I, the undersigned, a Registered Professional / State Land Surveyor in the State of Texas, do hereby certify that this Plat complies with the survey related requirements of the Polk County Subdivision Regulations and I further certify that this plat is true and correctly made and is prepared from an actual survey of the property made under my supervision on the ground and that the corner monuments were properly placed under my supervision.

## Registered Professional State Land Surveyor

Date

License No. \_\_\_\_\_

Seal:

## Appendix G

## **CERTIFICATE OF ENGINEER**

**THE STATE OF TEXAS**  
**COUNTY OF POLK**

**KNOW ALL MEN BY THESE PRESENTS**, that I, the undersigned, a Registered Professional Engineer in the State of Texas, hereby certify that this plat complies with the engineering related requirements of the Polk County Subdivision Regulations.

## Registered Professional Engineer

Date

License No. \_\_\_\_\_

Seal:

[NOTES: \*This certificate is required on the plat if any part of the plat was prepared by an engineer.

*\*The engineer may be required to be present for questioning at the presentation of the plat to the Commissioners Court.]*

## Appendix H (1)

**CERTIFICATE OF COUNTY FLOODPLAIN ADMINISTRATOR'S APPROVAL**

*[This certification must be included on plat and submitted complete with application]*

**THE STATE OF TEXAS** §  
**COUNTY OF POLK** §

[NOTE: Only one of the following two statements to be included in Certificate on plat]

Portions of the property are in the floodplain. A base flood elevation certificate from a surveyor will be required for each lot partially located in the floodplain *[after subdivision approval.]*

Property is not in the floodplain.

Signature of Owner/Subdivider/Developer: \_\_\_\_\_ Date: \_\_\_\_\_

Floodplain Administrator: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix H (2)

**CERTIFICATE OF DESIGNATED REPRESENTATIVE'S APPROVAL**

**THE STATE OF TEXAS** §  
**COUNTY OF POLK** §

Individual sewage facilities for each lot must be permitted in accordance with 30 TAC §285 and local Regulations.

## Polk County Jurisdiction

TRA Jurisdiction

**KNOW ALL MEN BY THESE PRESENTS**, that I, the undersigned, Designated Representative, hereby certify that I have inspected this plat, and the same complies with the lot size requirements of the Polk County Subdivision Regulations.

---

## Polk County Designated Representative

---

Date

License No.

*Seal:*

## Appendix I

### SUBDIVISION AND/OR ROAD NAME ADD/CHANGE REQUEST FORM

This form should be used for all additions, deletions, changes and corrections pertaining to 9-1-1 Rural Addressing. Complete this form and get approval from 9-1-1 Rural Addressing prior to completing Subdivision Plat for Commissioners Court approval.

All proposed subdivision and road names will be checked by the Addressing Office for duplication or “sound-alike” names within the county

DATE PRECINCT NO MAP PAGE MAP GRID

SUBDIVISION NAME: Approved Disapproved

EXISTING ROAD NAME:

PROPOSED ROAD NAME:

CHOICE 1 Approved Disapproved

CHOICE 2 Approved Disapproved

CHOICE 3 Approved Disapproved

COMMISSIONER'S SIGNATURE

Addressing Office Approval

SIGNATURE: DATE:

COMMENTS:

---

---

## **Appendix J**

### **CERTIFICATE OF ROAD MAINTENANCE** (When roads are to be maintained as Private Roads)

“In approving this plat by the Commissioners Court of Polk County, Texas, it is understood that all roads shown hereon are private roads and shall remain the property of the Owner/subdivider/developer and/or subsequent owners of the property. The construction, repair, and maintenance of these roads and any associated drainage improvements will be the responsibility of the Owner/subdivider/developer and/or subsequent owners of the subdivision and will not be the responsibility of Polk County.”

---

Owner/subdivider/developer or Representative

---

Date

## **Appendix K**

### **CERTIFICATE OF ROAD MAINTENANCE**

(When roads are to be dedicated to Polk County for maintenance)

“In approving this plat by the Commissioners Court of Polk County, Texas, it is understood that all roads shown hereon are private roads and shall remain the property of the Owner/subdivider/developer and/or subsequent owners of the property until such time as the Commissioners Court approves the dedication of the roads to the County for maintenance by way of a Warranty Deed. Acceptance of this plat does not constitute acceptance of the roads shown hereon by Polk County.”

---

Owner/subdivider/developer or Representative

---

Date

## Appendix L

## **CERTIFICATE OF COUNTY APPROVAL OF PLAT**

**THE STATE OF TEXAS**  
**COUNTY OF POLK**

I, \_\_\_\_\_, County Clerk of Polk County, Texas, do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_\_, the Commissioners Court of Polk County, Texas, passed an Order authorizing the filing for record of this Plat, and said Order has been duly entered in the minutes of the said Court in Book \_\_\_\_\_, Page \_\_\_\_\_.

**WITNESS MY HAND AND SEAL OF OFFICE** this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

## County Judge

---

## Commissioner, Precinct 1

---

## Commissioner, Precinct 2

## Commissioner, Precinct 3

## Commissioner, Precinct 4

ATTEST:

## County Clerk

## Appendix M

### POLK COUNTY PERMIT TO CONSTRUCT DRIVEWAY WITHIN COUNTY ROAD RIGHT-OF-WAY

Applicant: \_\_\_\_\_

County Road Name \_\_\_\_\_

Address: \_\_\_\_\_ Permit # \_\_\_\_\_

\_\_\_\_\_ Phone No. ( ) \_\_\_\_\_

I, Commissioner \_\_\_\_\_ of Precinct # \_\_\_\_\_ Polk County, Texas, authorize \_\_\_\_\_, hereinafter called the Grantee, to (re)construct an access driveway on the County road right-of way abutting County Road \_\_\_\_\_ in Polk County, Texas, located at \_\_\_\_\_;

#### SUBJECT TO THE FOLLOWING:

1. The Grantee is responsible for the culvert costs and installation.
2. Design of facilities shall be as shown on the sketch on page 2.
3. All construction and materials shall be subject to inspection and approval by the County.
4. The County reserves the right to require any changes, maintenance, or repairs as may be necessary to provide protection of life or property on or adjacent to the County road. Changes in design will be made only with approval of the County.
5. The Grantee shall hold harmless the County and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this permit.
6. The Grantee shall not erect any sign on, or extending over, any portion of the County road right-of-way.
7. Vehicle service fixtures such as fuel pumps, fuel tanks, vendor stands, *etc.*, shall be located at least 12 (twelve) feet from the right-of-way line to ensure that vehicles being serviced from these fixtures will be off the County road.
8. Entrances must be constructed in such a way as to keep obstructions from being present in the right-of-way.

9. Mail boxes must be mounted on break away stands and be located so that boxes may be serviced and used from off the pavement.
10. This permit will become null and void if the above referenced driveway facilities are not constructed within six (6) months from the issuance date of this permit.
11. The Grantee will contact the Court's representative \_\_\_\_\_ at telephone number (936) \_\_\_\_\_ at least twenty-four (24) hours prior to beginning construction which is authorized by this permit.

DATE OF ISSUANCE: \_\_\_\_\_

ROAD ADMINISTRATOR: \_\_\_\_\_

The undersigned hereby agrees to comply with the terms and conditions set forth in this permit for construction of an access driveway on the County road right-of-way.

PRINTED NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

**SKETCH OF INSTALLATION**

## Appendix N

### LIENHOLDER'S ACKNOWLEDGEMENT

I (We), (Name of Lienholder(s)) \_\_\_\_\_  
\_\_\_\_\_,

owner/subdivider/developer(s) and holder(s) of a lien(s) against the property described within the Revision to Plat, said lien(s) being evidenced by instrument of record in Volume \_\_\_\_\_, Page \_\_\_\_\_, of the Real Property Records of Polk County, Texas, do hereby in all things subordinate to said Revision of Plat said lien(s), and I (we) hereby confirm that I am (we are) the present owner/subdivider/developer(s) of said lien(s) and have not assigned the same nor any part thereof.

\_\_\_\_\_  
(Signature of Lienholder(s))

\_\_\_\_\_  
(Printed name(s))

**THE STATE OF TEXAS** §  
§  
**COUNTY OF POLK** §

**SWORN TO AND SUBSCRIBED** before me by \_\_\_\_\_  
\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
The State of Texas

## Appendix O

### REVISION TO PLAT

Name of Subdivision: \_\_\_\_\_

Recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_ of the Real Property Records of Polk County, Texas

Commissioner Precinct No.: \_\_\_\_\_

Owner/subdivider/developer: \_\_\_\_\_

Owner/subdivider/developer's Mailing Address: \_\_\_\_\_

Owner/subdivider/developer's Phone Number(s): \_\_\_\_\_

Lots or Tracts to be revised (include Unit, Section or Phase # if applicable): \_\_\_\_\_

Resulting Lot Number to be Known As: \_\_\_\_\_

Lienholder: \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, Name of Lienholder: \_\_\_\_\_

(Attach Lienholder's Acknowledgement, Appendix N)

---

**IF REVISED PLAT INCLUDES ANY CHANGES TO AN EXISTING UTILITY EASEMENT, RELEASE OF SAID EASEMENTS BY THE UTILITY PROVIDERS IS REQUIRED BEFORE APPROVAL OR FILING OF SAID PLAT.**

---

The signature affixed below will certify that the owner/subdivider/developer of the described property does hereby request to revise the plat of the property. The owner/subdivider/developer certifies that any and all lienholders have acknowledged this revision as per the attached Lienholder's Acknowledgement, if applicable.

---

(Owner/subdivider/developer's Signature)

---

(Printed name)

**THE STATE OF TEXAS** §  
§  
**COUNTY OF POLK** §

**SWORN TO AND SUBSCRIBED** before me by \_\_\_\_\_  
\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for  
The State of Texas

**APPROVED BY COMMISSIONERS COURT ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_,  
20\_\_\_\_.**

\_\_\_\_\_  
**POLK COUNTY JUDGE**

**ATTEST:** \_\_\_\_\_  
**POLK COUNTY CLERK**

## Appendix P

### NOTICE OF PROPOSED UTILITY LINE INSTALLATION POLK COUNTY RIGHT OF WAY AND PERMIT

**TO:** **Commissioner** \_\_\_\_\_  
**Precinct No.** \_\_\_\_\_

**Address**

Formal Notice is hereby given that \_\_\_\_\_ proposes to place a \_\_\_\_\_ line within the right of way of County Road \_\_\_\_\_ as follows: (list location, length, general design, *etc.*)

The installation will begin on or after the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The line will be constructed and maintained on the road right-of-way as directed by Polk County Commissioner Precinct No. \_\_\_\_\_.

The location and description of the proposed line are more fully shown in the attached drawings.

Applicant will insure that traffic control measures complying with applicable portions of the Texas Manual of Uniform Traffic Control Devices will be installed and maintained during the installation.

If the proposed installation is a parallel installation, the installation shall be located \_\_\_\_\_ feet within the edge of the right-of-way and at least \_\_\_\_\_ feet in depth, unless otherwise approved by the County.

\_\_\_\_\_ The installation shall not damage any portion of the road and adequate provisions must be made to cause minimum inconvenience to traffic and adjacent property owners during installation.

OR

\_\_\_\_\_ The installation shall damage a portion of the road. The applicant will return the road to its pre-installation condition at the Applicant's expense within \_\_\_\_\_ days of installation. During installation, adequate provisions must be made to cause minimum inconvenience to traffic and adjacent property owners during installation.

Applicant agrees that any damages sustained to the line installed under this proposal as a result of road construction and/or maintenance, including but not limited to mowing, ditch cleaning, culvert repair or replacement, roadway excavation, and base work shall be the sole burden and expense of the owner/subdivider/developer of the utility line.

Applicant agrees to give Polk County Commissioner Precinct No. \_\_\_\_\_ fifteen (15) days prior notice of any routine or periodic maintenance which requires interruption of traffic and pruning of

trees within the road right-of-way. The county may provide specifications for the extent and methods governing trimming, cropping, tree balance, type of cuts, painting cuts, and clean up.

Applicant agrees that Polk County does not purport to grant any right, claim, title, or easement in or upon this road, and Applicant further agrees that Polk County may require owner/subdivider/developer to relocate line, subject to provisions of governing laws, upon the giving of \_\_\_\_\_ day's written notice.

In the event Applicant fails to comply with any of the requirements as set forth above, Polk County may take such action as it deems appropriate to compel compliance

Additional Special Provisions:

By signing the below, I certify that I am Applicant or am authorized to represent Applicant and that Applicant agrees to be bound by the provisions of the Notice and Permit.

APPLICANT:

Name: \_\_\_\_\_  
Authorized agent: \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

POLK COUNTY:

Commissioner \_\_\_\_\_  
Precinct No. \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

## Appendix Q

### IN THE COMMISSIONERS COURT Of POLK COUNTY, TEXAS

#### ESTABLISHMENT OF PLANS AND SPECIFICATIONS FOR A STANDARD CATTLE GUARD TO BE USED ON COUNTY ROADS WITHIN POLK COUNTY, TEXAS

WHEREAS, §251.003 (a)(1) of the Texas Transportation Code grants the Polk County Commissioners Court the authority to make and enforce all necessary rules and orders for the construction and maintenance of public roads; and

WHEREAS, cattle guards currently exist on County maintained roads; and

WHEREAS, Polk County anticipates requests from a property owner/subdivider/developer proposing to construct new cattle guards on an existing County maintained road; and

WHEREAS, Texas Transportation Code §251.009 (a) states that the Polk County Commissioners Court may authorize the construction of a cattle guards on a county road of any class; and

WHEREAS, §251.009 (b) of the Texas Transportation Code requires that the Polk County Commissioners Court establish plans and specifications for a standard cattle guard to be used on the county roads;

NOW, THEREFORE, IT IS ORDERED BY THE COMMISSIONERS COURT OF POLK COUNTY, that the standards herein attached, shall serve as the standard for construction of cattle guards on County maintained roads; and

IT IS FURTHER ORDERED BY THE COMMISSIONERS COURT OF POLK COUNTY, that a person proposing to construct a cattle guard on a County maintained road may submit a Permit to Construct Cattle Guard on Polk County Right of Way for consideration by the Polk County Commissioners Court.

IT IS FURTHER ORDERED BY THE COMMISSIONERS COURT OF POLK COUNTY, that a person proposing to construct a cattle guard on a County maintained road may submit an alternate cattle guard design, prepared by a Registered Engineer, for consideration by the Polk County Engineer, and the County Engineer's decision may be appealed to Commissioners Court.

Approved, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the Polk County Commissioners Court.

---

County Judge

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County Commissioner Pct. 1

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County Commissioner Pct. 2

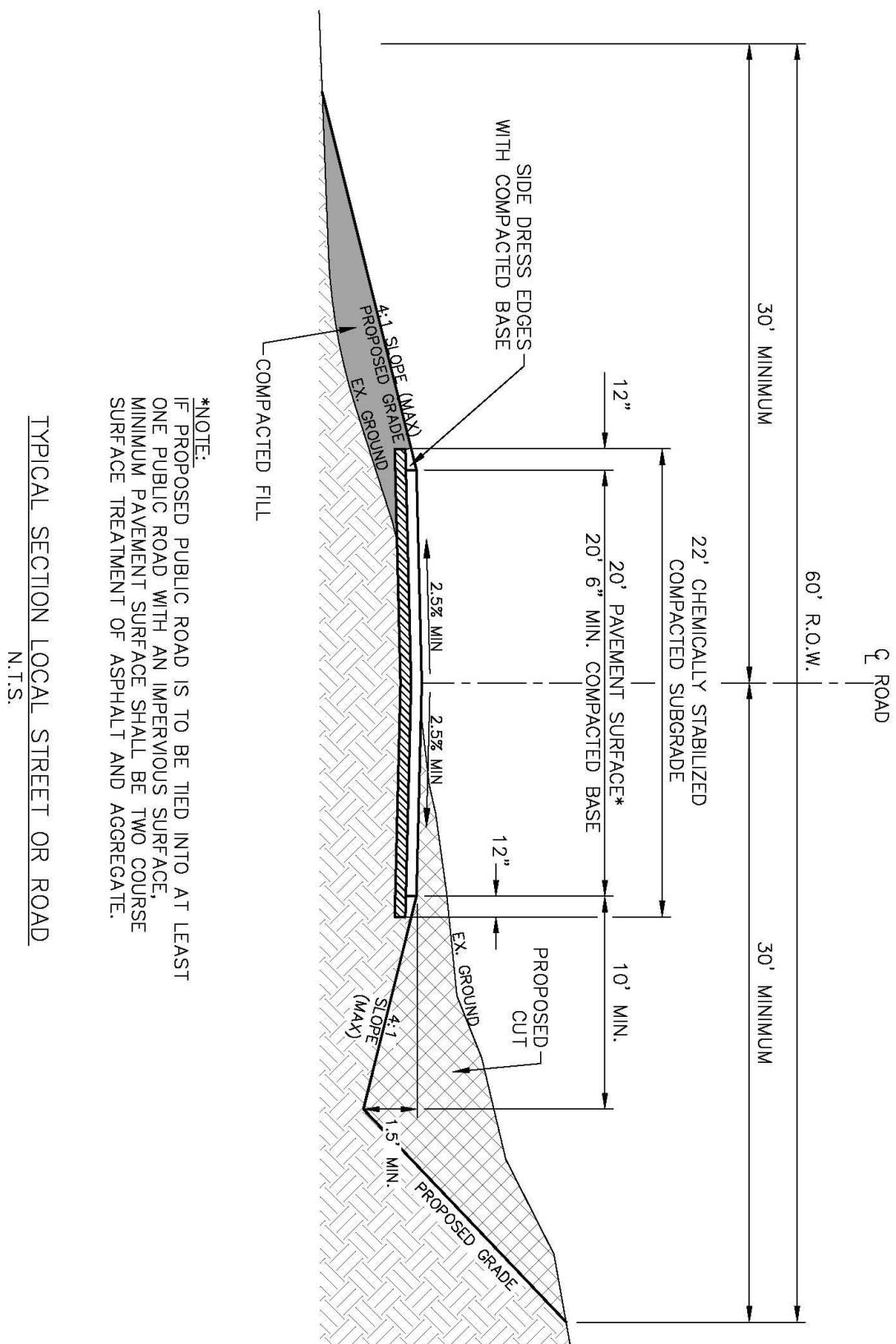
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County Commissioner Pct. 3

---

County Commissioner Pct. 4

## Appendix R



## Appendix S

### SUMMARY OF POLK COUNTY ROAD STANDARDS

Average Daily Traffic (one-way trips) **	0-1000	1001-2500	2501-5000	5001-15000
Functional Classification	Local Street	Minor Collector	Major Collector	Minor Arterial
Design Speed	35 mph	35 mph	45 mph	55 mph
Number of Lanes	2	2	2	4
ROW Width	60'	60'	70'	100'
Width of Traveled Way	20'	22'	28'	48'
Width of Stabilized Subgrade	22'	24'	30'	50'
Minimum Centerline Radius	175'	375'	675'	975'
Minimum Tangent Length between Reverse Curves Or Compound Curves	75'	150'	300'	500'
Minimum Radius for Edge of Pavement At intersections	25'	25'	25'	25'
Intersecting Street Angle	80-100	80-100	80-100	80-100
Maximum Grade *	11%	10%	9%	8%
Minimum Street Centerline Offset at Adjacent Intersections	125'	125'	125'	125'
Minimum Stopping Sight Distance	175'	250'	350'	550'
Minimum Intersection Sight Distance	250'	350'	450'	550'
Steepest Ditch Fore Slope Grade	4:1	4:1	4:1	6:1
Flood Design (year event)	10	15	25	25

- Any deviation from these standards must be the subject of an approved variance. \*
- Lots that are restricted by plat note to one single-family residence shall be presumed to generate 10 one-way trips per day. Average daily traffic for all other lots shall be determined by the precinct commissioner of their designee. Factors to consider are lot size, other plat restrictions and the potential for future development. \*\*
- The entire side ditch shall be totally contained within the road right-of-way or a dedicated drainage easement. Guardrails shall be required wherever the ditch depth exceeds 8' from the edge of the shoulder to the bottom of the ditch on local streets, 6' from the edge of the shoulder to the bottom of the ditch on minor collectors, and 4' from the edge of the shoulder to the bottom of the ditch on all others larger than a minor collector.
- Any development generating more than 15000 average daily traffic counts will be designed according to TxDot standards.

## **Appendix T**

### **Retainer for Engineer Review and Filing Fees**

All engineer review fees will be paid by the owner/subdivider/developers. A retainer must be deposited with the County Judge's Office along with the subdivision application in the following minimum amounts:

Subdivisions up to 10 acres or 10 lots:	\$3,000
Subdivisions Larger than 10 acres or 10 lots:	\$6,000
Other developments or exceptional situations:	Retainer amount to be determined in consultation with the engineer on a case-by-case basis.
Filed Plat:	\$100.00
Filed Deed Restrictions:	\$26 + \$4 per additional page
If engineer review fees exceed above-listed retainers, the owner/subdivider/developer must pay in full prior to approval of the subdivision.	
Any unused portion of the retainer will be returned to the applicant.	

---

PASSED AND APPROVED THIS 23<sup>RD</sup> DAY OF JULY 2024.

---

\_\_\_\_\_  
Sydney Murphy, County Judge

---

\_\_\_\_\_  
Guylene Robertson  
Commissioner, Precinct 1

---

\_\_\_\_\_  
Mark DuBose  
Commissioner, Precinct 2

---

\_\_\_\_\_  
Milton Purvis  
Commissioner, Precinct 3

---

\_\_\_\_\_  
Jerry Cassity  
Commissioner, Precinct 4

ATTEST:

---

\_\_\_\_\_  
Schelana Hock, County Clerk  
(Seal)

## Appendix U

### AFFIDAVIT FOR RECORDATION OF TAX CERTIFICATE

I (We), (owner/subdivider/developer(s)) \_\_\_\_\_

\_\_\_\_\_,

am/are the sole owner(s) of the property described in the plat of the subdivision to be known as

\_\_\_\_\_  
(the “Subdivision”). The original tax certificate(s) attached to this Affidavit describe all of the property contained within the Subdivision and all taxing entities with jurisdiction over the Subdivision.

\_\_\_\_\_  
(Signature(s))

\_\_\_\_\_  
(Printed name(s))

## APPENDIX V

### SUBDIVISION CONSTRUCTION AGREEMENT FORM

---

Description of improvements exactly as list on bonds.

1. **Parties.** This Subdivision Construction Agreement (the Agreement) is by and between the County and the Subdivider. The County is Polk County, Texas, acting by and through its Commissioners Court, or authorized representative as designated by the Commissioners Court. The Subdivider is \_\_\_\_\_, who is the owner, or the authorized agent of the owner, of a tract of land located within the geographic area and jurisdiction of the County.
2. **Effective Date.** This Agreement is effective on the date the County approves the final plat for the subdivision described in Paragraph 3 of this agreement (the Effective Date).

#### **Recitals**

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the subdivision, as shown in County's File Number (the Subdivision) and more particularly described by the metes and bounds description attached and incorporated into this Agreement as Exhibit A (the Property); and
4. Subdivider seeks authorization from the County to subdivide the Property in accordance with the requirements imposed by Texas statute and the County's ordinances, regulations, and other requirements; and
5. County ordinances require the completion of various improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effects of substandard subdivisions; and
6. The purpose of this Agreement is to protect the County from the expense of completing subdivision improvements required to be installed by the Subdivider; and
7. This agreement is authorized by and consistent with state law and the County's ordinances, regulations, and other requirements governing the development of a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

#### **Subdivider's Obligations**

8. **Improvements.** The Subdivider agrees to construct and install, at Subdivider's expense, all subdivision improvements required to comply with County orders, ordinances, regulations, and policies governing subdivision approval, specifically including without limitation those improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, the Improvements, any one of which is an Improvement). All Improvements shall be constructed in conformity to the County's requirements, procedures, and specifications, pursuant to construction plans, permits, and specifications approved by the County prior to commencement of construction, and subject to inspection, certification, and acceptance by the County.

**9. Completion.** Unless a different time period is specified for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than two (2) years after the Effective Date (the Completion Date); provided, however, that if the Subdivider or the Issuer delivers to the County no later than the Completion Date a substitute Letter of Credit satisfying the criteria established by Paragraph 11 and which has an expiration date no earlier than one year from the Completion Date, then the Completion Date shall be extended to the expiration date of that substitute Letter of Credit or any subsequent substitute Letter of Credit provided in accordance with this Paragraph. Upon completion of each of the Improvements, the Subdivider agrees to provide to the County a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

**10. Warranty.** The Subdivider warrants the Improvements constructed by Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees will be free from defects for a period of two (2) years from the date the County accepts the dedication of a completed Improvement or group of Improvements (the Warranty Period), as such Improvement or group of Improvements is separately identified and listed on Exhibit B, except the Subdivider does not warrant the Improvements for defects caused by events outside the control of the Subdivider or the Subdividers' agents, contractors, employees, tenants, or licensees. The Subdivider agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the County's acceptance of the dedication of any of the Improvements, the County may require the Subdivider to post a maintenance bond or other financial security acceptable to the County to secure the warranty established by this Agreement. If the Improvements have been completed but not accepted, and neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider or the Issuer the County shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the County.

**11. Security.** To secure the performance of Subdivider's obligations under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the County, a cash deposit to be held by the County in escrow, or an irrevocable letter of credit in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the Stated Amount), which amount is the estimated total cost of constructing each of the Improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to the County, shall have an expiration date no earlier than two years from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the County's financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the Issuer). During the term of this Agreement and subject to the terms of Paragraph 22 of this Agreement, the County may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of Subdivider's obligations under this agreement. A letter of credit satisfying the criteria of this Paragraph (and any substitute or confirming letter of credit) is referenced to in this agreement as the "Letter of Credit."

**12. Reduction in Letter of Credit.** After the acceptance of any Improvement, the amount which the County is entitled to draw on the Letter of Credit shall be reduced by an amount equal to ninety percent (90%) of the Quoted cost of the accepted Improvement, as shown on Exhibit B. Upon completion of an Improvement, at the written request of Subdivider or Issuer, and if neither the Subdivider nor Issuer is then in default under this agreement or the Letter of Credit, the County shall complete, execute, and

deliver to the Issuer a reduction letter verifying the acceptance of the Improvement and documenting that the Stated Amount has been reduced by stating the balance of the Stated Amount remaining after the reduction required by the first sentence of this Paragraph. No later than sixty (60) days after its receipt of a written request to reduce the Stated Amount submitted by the Subdivider or the Issuer, the County shall determine the Estimated Remaining Cost and shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to the Estimated Remaining Cost if the County determines the Stated Amount exceeds the Estimated Remaining Cost. Notwithstanding the preceding sentence, the County shall not be required to authorize reductions in the Stated Amount more frequently than every ninety (90) days. As used in this Paragraph, "Estimated Remaining Cost" means the amount the County estimates to be the cost of completing all Improvements which are incomplete as of the time of such estimate.

#### **County's Obligations**

13. **Inspection and Certificate.** The County agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the standards and specifications for such Improvements, to certify the Improvements as being in compliance with County standards and specifications. The inspections and certifications will be conducted in accordance with standard County policies and requirements. The Subdivider grants the County, its agents, employees, officers, and contractors an easement and license to enter the Property to perform such inspections as it deems appropriate.

14. **Notice of Defect.** The County will provide timely notice to the Subdivider whenever inspection reveals that an Improvement is not constructed or completed in accordance with the standards and specifications for health or safety, and the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than five (5) days and the County may declare a default under this Agreement if not satisfied that the defect is cured after the cure period. Any cure period should be reasonable in relation to the nature of the default.

15. **Use of Proceeds.** The County will disburse funds drawn under the Letter of Credit only for the purposes of completing the Improvements in conformance with the County's requirements and specifications for the Improvements or to correct defects in or failures of the Improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on the funds. All funds obtained by the County pursuant to one or more draws under the Letter of Credit shall be maintained by the County in an interest-bearing account or accounts until such funds, together with accrued interest thereon (the Escrowed Funds), are disbursed by the County. The County may disperse all or portions of the Escrowed Funds as Improvements are completed and accepted by the County or in accordance with the terms of a written construction contract between the County and a third party for the construction of Improvements. Escrowed Funds not used or held by the County for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with interest accrued thereon, shall be paid by the County to the Issuer of the Letter of Credit no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvement using Escrowed Funds, whichever date is earlier.

16. **Return of Excess Escrowed Funds.** No later than sixty (60) days after its receipt of a written request from the Subdivider or the Issuer to return Excess Escrowed Funds to the Issuer, the County shall disburse to the Issuer from the Escrowed Funds all Excess Escrowed Funds. For purposes of this Paragraph, "Excess Escrowed Funds" means the amount of Escrowed Funds exceeding one hundred

ten percent (110%) of the estimated cost of constructing Improvements the County intends to construct but which have not been accepted, as such cost is shown on Exhibit B. Notwithstanding the first sentence in this Paragraph, the County shall not be required to disburse Excess Escrowed Funds more frequently than every ninety (90) days.

**17. Cost Participation by County.** If the County and Subdivider agree the County will participate in the expense of installing any of the Improvements, the respective benefits and obligations of the parties shall be governed by the terms of a Community Facilities Construction Agreement executed by the parties thereto, and the terms of that agreement shall control to the extent of any inconsistency with this Agreement.

**18. Conditions of Draw on Security** The County may draw upon any financial guarantee posted in accordance with Paragraph 11 upon the occurrence of one or more of the following events:

- (a) Subdivider's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement;
- (b) Subdivider's failure to renew or replace the Letter of Credit at least forty-five (45) days prior to the expiration date of the Letter of Credit;
- (c) Subdivider's failure to replace or confirm the Letter of Credit if the Issuer fails to maintain the minimum rating acceptable to the County, in accordance with Paragraph 11 of this Agreement; or
- (d) Issuer's acquisition of the Property or a portion of the Property, through foreclosure or an assignment or conveyance in lieu of foreclosure.

The County shall provide written notice of the occurrence of one or more of the above events to the Subdivider, with a copy provided to the Issuer. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraph (a), the County shall provide notice to the Subdivider and the Issuer of the specific default and the notice shall include a statement that the County intends to perform some or all of Subdivider's obligations under Paragraph 8 for specified Improvements if the failure is not cured. The notice with respect to a default under subparagraph (a) shall be given no less than twenty (20) days before the presentation of a draft of the Letter of Credit, unless, in the reasonable opinion of the County, the failure creates immediate and substantial harm to the public health or safety, in which case the notice shall state why the failure creates immediate and substantial harm to the public health or safety and shall be given no less than five (5) days before the presentation of a draft on the Letter of Credit. In the event of a draw based on subparagraph (a), the County shall be entitled to draw in the amount it considers necessary to perform Subdivider's obligations under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement it states its intent to construct or complete in accordance with the standards and specifications for such improvement. The subdivider hereby grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such Improvements. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraphs (b), (c), or (d), the notice shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit. In lieu of honoring a draft based on an event described in subparagraphs (b) or (c), the Issuer or the Subdivider may deliver to the County a substitute Letter of Credit if the event is described by subparagraph (b) or a substitute or confirming Letter of Credit if the event is described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring a draft based on an event described in subparagraph (d), the Issuer may deliver to the County a substitute or

confirming Letter of Credit.

**19. Procedures for Drawing on the Letter of Credit.** The County may draw upon the Letter of Credit in accordance with Paragraph 18 by submitting a draft to the Issuer in compliance with the terms of the Letter of Credit governing such draft. The Letter of Credit must be surrendered upon presentation of any draft which exhausts the Stated Amount of such Letter of Credit. The County may not draft under a Letter of Credit unless it has substantially complied with all its obligations to the Issuer under this Agreement and has properly completed and executed the draft in strict accordance with the terms of the Letter of Credit.

**20. Measure of Damages.** The measure of damages for breach of this Agreement by the Subdivider is the reasonable cost of completing the Improvements in conformance with the County's requirements, procedures, and specifications. For Improvements upon which construction has not begun, the estimated cost of the Improvements shown on Exhibit B will be *prima facie* evidence of the minimum cost of completion; however, neither that amount, nor the amount of the Letter of Credit establishes the maximum amount of the Subdivider's liability.

**21. Remedies.** The remedies available to the County, the Subdivider, and the Issuer under this Agreement and the laws of Texas are cumulative in nature.

**22. Provisions for the Benefit of Issuer.** The provisions of Paragraphs 9, 10, 11, 12, 15, 16, 18, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, and 36 of this Agreement for the benefit of the Issuer may not be modified, released, diminished, or impaired by the parties without the prior written consent of the Issuer.

**23. Third Party Rights.** No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the County (including without limitation a trustee in bankruptcy) have any interest in or claim to funds drawn on the Letter of Credit and held in escrow by the County in accordance with this Agreement. Notwithstanding the preceding sentence, the Issuer shall have a right of action to enforce any provision of this Agreement where the Issuer is specifically named as a beneficiary of a such provision pursuant to Paragraph 22.

**24. Indemnification.** The Subdivider hereby expressly agrees to indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act of negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider. The Subdivider is not an employee or agent of the County. Notwithstanding anything to the contrary contained in this agreement, the Subdivider does not agree to indemnify and hold the County harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the County, its agents, contractors, employees, tenants, or licensees.

**25. No Waiver.** No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this

agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the County, the Subdivider, or the Issuer, their heirs, successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

26. **Attorney's Fees.** Should either party or the Issuer, to the extent Issuer is named as specific beneficiary, be required to resort to litigation to enforce the terms of this agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in its entirety.

27. **Assignability.** The benefits and burdens of this Agreement are personal obligations of the Subdivider and also are binding on the heirs, successors, and assigns of the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the express written approval of the County. The County's written approval may not be withheld if the Subdivider's assignee explicitly assumes all obligations of the Subdivider under this Agreement and has posted the required security. The County agrees to release or reduce, as appropriate, the Letter of Credit provided by the Subdivider if it accepts substitute security for all or any portion of the Improvements. The County, in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Subdivider and the Issuer.

28. **Expiration.** This Agreement shall terminate upon the expiration of the approval of the proposed final plat of the Subdivision or if the Subdivision is vacated by the Subdivider.

29. **Notice.** Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after the notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Subdivider:

Attn: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Office or Position: \_\_\_\_\_

Address: \_\_\_\_\_

if to County:

Printed Name: \_\_\_\_\_

Office or Position: County Judge

Address: 101 W. Church St.

Livingston, TX 77351

if to the Issuer: at the Issuer's address shown on the Letter of Credit.

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of the change is provided to the other party in accordance with the provisions of this Paragraph.

30. **Severability.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the

validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

**31. Personal Jurisdiction and Venue.** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement or the Issuer, whether arising out of or relating to the Agreement or the Letter of Credit, will be deemed to be proper only if such action is commenced in District Court for Polk County, Texas, or the United States District Court for the East District of Texas, Lufkin Division. The Subdivider expressly waives any right to bring such an action in or to remove such action to any other court, whether state or federal. The Issuer, by providing a Letter of Credit pursuant to the terms of this Agreement, expressly waives any right to bring such an action in or to remove such action to any other court, whether state or federal.

**32. Release Upon Completion.** Upon acceptance of all Improvements, the County agrees: (a) to complete, execute and deliver to the Subdivider and the Issuer a release in recordable form releasing the Subdivider and Subdivider's heirs, successors, and assigns, and the Property from all provisions of this Agreement except those contained in Paragraph 10, and (b) to return to the Issuer the Letter of Credit and any Escrowed Funds not expended or obligated by the County for the completion of the Improvements.

**33. Captions Immaterial.** The numbering, order, and captions or headings of the paragraphs of this agreement are for convenience only and shall not be considered in construing this agreement.

**34. Entire Agreement.** This Agreement contains the entire agreement between the parties and correctly sets forth the rights, duties, and obligations of each to the other as of the Effective Date. Any oral representations or modifications concerning this Agreement shall be of no force or effect except a subsequent written modification executed by both parties.

**35. Authorization to Complete Blanks.** By signing and delivering this agreement to the appropriate official of the County, the Subdivider authorizes completion of this Agreement by filling in the Effective Date below.

**36. Binding Agreement.** The execution and delivery of this agreement and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate and governmental activities of the County. This Agreement has been duly executed and delivered by each party and constitutes a legal, valid, and binding obligation of each party enforceable in accordance with the terms as of the Effective Date. These representations and agreements are for the benefit of the Issuer and have been relied on by the Issuer in issuing the Letter of Credit.

EXECUTED by the parties to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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County Official

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Subdivider

[SIGNATURES OF THE PARTIES TO BE ACKNOWLEDGED]

**EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY**

**EXHIBIT B: SUBDIVISION IMPROVEMENTS**

Subdivision Improvements. Subdivider and County agree the following improvements are required in connection with the approval and development of the Subdivision (collectively, the Subdivision Improvements). Subdivider agrees to deliver a financial guarantee acceptable in form and substance to the County in an amount equal to the Estimated Cost of Completion listed below, as follows:

Description of Improvement(s)	Estimated Cost of Completion
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a)

b)

c)

## **CHAPTER 364. MODEL SUBDIVISION RULES**

31 Texas Administrative Code §364.01 et seq

### **SUBCHAPTER A. GENERAL PROVISIONS**

**§364.1. Scope of Chapter.** This chapter contains model rules which the Texas Water Development Board (board) is required to adopt in accordance with Texas Water Code, §16.343. Before an application for financial assistance from the Economically Distressed Areas Program as specified in Chapter 355, Subchapter B of this title or Chapter 363, Subchapter E of this title may be considered by the board, the applicant shall provide documentation satisfactory in form and in substance that the municipality, if applicable, and county in which the applicant is located has adopted the necessary orders, ordinances, or other rules that meet the requirements of the Model Subdivision Rules contained in Subchapter B of this chapter.

**§364.2. Purpose.** The model rules provide the criteria for assuring that an adequate supply of safe drinking water and adequate safe sewer facilities are available to residential areas in accordance with state standards established by the Texas Department of Health and the Texas Natural Resource Conservation Commission. The model rules prohibit the establishment of residential developments with lots of five acres or less without adequate water supply and sewer services, prohibit more than one single-family, detached dwelling to be located on each subdivision lot, and establish minimum setbacks to ensure proper operation of water supply and sewer services and to reduce the risk of fire hazards.

### **SUBCHAPTER B. MODEL RULES**

#### **Division 1. General and Administrative Provisions**

**§364.11. Authority and Scope of Rules.** These rules are adopted by County, Texas, under the authority of the Local Government Code, Chapter 232 and Water Code, §16.350. Notwithstanding any provision to the contrary, these rules apply only to a subdivision which creates two or more lots of five acres or less intended for residential purposes. Lots of five acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

**§364.12. Purpose.** It is the purpose of these rules to promote the public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of this county, and to apply the minimum state standards for water and wastewater facilities to these subdivisions.

**§364.13. Effective Date.** These rules became effective on the 10th day of February, 2000.

**§364.14. Repealed.** Provisions of Order(s) Number \_\_\_, adopted on the \_\_\_ day of \_\_\_, \_\_\_, are hereby repealed, except as to such sections which are retained herein.

### **§364.15. Plat Required.**

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

**§364.16. Supersession.** These rules supersede any conflicting regulations of the county.

**§364.17. 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 commissioners court hereby declares that it would have enacted the remainder of these regulations without any such part, provision or application.

**§364.18. Definitions.** The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) **Commissioners court (or court)** – The commissioners court of Polk County, Texas.
- (2) **County** – Polk County, Texas
- (3) **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.
- (4) **Engineer** - A person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.
- (5) **Final plat** -A map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the county records and prepared as described in these regulations.
- (6) **Lot** - An undivided tract or parcel of land.
- (7) **Non-public water system** - Any water system supplying water for domestic purposes which is not a public water system.
- (8) **OSSF** -On-site sewage facilities as that term is defined in rules and/or regulations adopted by TNRCC, including, but not limited to, 30 TAC Chapter 285.
- (9) **Platted** - Recorded with the county in an official plat record.
- (10) **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.

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

## **Division 2. Minimum Standards**

**§364.31. Scope of Standards.** The establishment of a residential development with two or more lots of five acres or less where the water supply and sewer services do not meet the minimum standards of 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 final plat and all deeds and contracts for deeds.

## **§364.32. 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 in substantially the form attached in Appendix 1A. 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. Figure: 31 TAC §364.32(a)(1)
  - (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 TNRCC. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC §§290.38- 290.51 and §§290.101-290.120. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the 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, that 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, a test well or wells located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity of the 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 another 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.

### **364.33. Wastewater Disposal.**

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

(b) **On-site sewerage 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 sewerage facilities for the disposal of sewage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317.
- (3) The TNRCC 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(b), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

**§364.34. Greywater Systems for Reuse of Treated Wastewater.**

- (a) Organized or municipal sewerage systems. Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by the TNRCC.
- (b) On-site sewerage facilities. Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC Chapter 285.

**§364.35. Sludge Disposal.** The disposal of sludge from water treatment and sewerage facilities shall meet the criteria of 30 TAC Chapter 312 and Chapter 317.

**§364.36. Setbacks.** In areas that lack a nationally recognized fire code as listed in Local Government Code, §235.002(b)(2) and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of 10 feet, setbacks from adjacent property lines shall be a minimum of five feet and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the county shall control to the extent greater setbacks are therein required.

**§364.37. Number of Dwellings Per Lot.** No more than one single family detached dwelling shall be located on each lot. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Proposals which include multi-family residential shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.

**Division 3. Plat Approval**

**§364.51. Applications 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 of five acres or less for residential use shall comply with the standards of Division 2 and the requirements of Division 3 of this subchapter.

**§364.52. Final Engineering Report.** The final plat shall be accompanied by an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the county shall be provided for those unconstructed water supply and distribution

facilities and wastewater collection and treatment facilities which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under §364.54 of this title, the schedule shall include the start dates and completion dates.

(1) **Public water systems.**

(A) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1A and referenced in §364.32(a)(1) of this title. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project which may include in addition to the county the TNRCC and the county health department. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include comments regarding the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.

(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 TNRCC and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include an analysis of the long-term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(2) **Non-public water systems.** Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with §364.32 of this title. The results of such analyses shall be made available to prospective property owners. If the water quality of the test well required pursuant to §364.32(b) of this title does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the county at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next 30 years. Such a statement may be based on information available from the Texas Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.

(3) **Organized sewerage facilities.**

(A) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement between the subdivider and the retail public utility in substantially the form attached in Appendix 1B 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 TNRCC and plans and

specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.

(B) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the TNRCC. 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 TNRCC, and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.

(4) **On-site sewerage facilities.** Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC §285.4(c), including the site evaluation described by 30 TAC §285.30 and all other information required by the county's OSSF order.

**§364.53. Additional Information.** The county may, at its option, require additional information necessary to determine the adequacy of proposed water and wastewater improvements as part of the plat approval process. Such information may include, but not be limited to:

- (1) The layout of the proposed street and drainage work.
- (2) The legal description of the property.
- (3) Existing area features;
- (4) Topography;
- (5) Flood plains;
- (6) Description of existing easements;
- (7) Layout of other utilities'
- (8) Notation of deed restrictions;
- (9) Public use areas; or
- (10) Proposed area features.

**§364.54. Financial Guarantees for Improvements.**

- (a) **Applicability.** If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of five acres or less at the time final plat approval is sought, then the commissioners court shall require the owner of the subdivided tract to execute an agreement with the county in substantially the form attached in Appendix 2A secured by a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit which meet the requirements set forth below. Figure: 31 TAC §364.54(a)
- (b) **Bonds.** A bond that is submitted in compliance with paragraph (a) of this section shall meet the following requirements.
  - (1) 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.
  - (2) The bond or financial guarantee shall be in an amount determined by the commissioners court to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.
  - (3) 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:
    - (A) registration with the Secretary of State and be authorized to do business in Texas.
    - (B) authorization to issue bonds in the amount required by the commissioner's court; and
    - (C) 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.
  - (4) 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.

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

(1) 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.

(A) 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.

(B) 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.

(C) 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.

(2) 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.

(A) 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.

(B) 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.

(C) 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.

(3) The letter of credit shall list as sole beneficiary the county judge of the county, in his official capacity, or the judge's successor in office, and must be approved by the county judge of the county. The form of the letter of credit shall be modeled after the form attached in Appendix 2B. Figure: 31 TAC §364.54(c)(3)

(4) 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 commissioners court.

- (d) **Financial guarantee.** The county will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.
- (e) **Alternative to county accepting a financial guarantee.** The county may approve a final plat under this section without receiving a financial guarantee in the name of the county if:
  - (1) the property being subdivided lies wholly within the jurisdiction of the county.
  - (2) the property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and
  - (3) the municipality has executed an interlocal agreement with the county that imposes the obligation on the municipality to:
    - (A) accept the bonds, letters of credit, or other financial guarantees, that meet the requirements of this section;
    - (B) execute the construction agreement with the subdivider; and
    - (C) assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

#### **§364.55. Review and Approval of Final Plats.**

- (a) Scope of review. The county will review the final plat to determine whether it meets the standards of Division 2 and the requirements of Division 3 of this subchapter.
- (b) Disapproval authority. The commissioner's court shall refuse to approve a plat if it does not meet the requirements prescribed by or under these rules.
- (c) Prerequisites to approval. Final plat approval shall not be granted unless the subdivider has accomplished the following:
  - (1) dedicated the sites for the adequate water and sewerage facilities identified in the final plat to the appropriate retail public utility responsible for the operation and maintenance of the facilities; and
  - (2) provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from TNRCC of the plans and specifications for such construction, including any change orders filed with these agencies; or
  - (3) obtained all necessary permits for the proposed water facilities and sewerage facilities (other than for OSSF permits on individual lots within the proposed subdivision) and has entered into a financial agreement with the county secured by a bond or other alternative financial guarantees such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in Division 3 of this subchapter.

#### **§364.56. Time Extensions for Providing Facilities.**

- (a) Reasonableness. 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 are submitted which will be effective for the period of the extension; and

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

(b) Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.

(c) Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Division 2 of this subchapter.

**§364.57. Criteria for Subdivisions that Occurred Prior to September 1, 1989.**

(a) Authority and scope. This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989, and have not been platted or recorded. This section is in addition to the authority of the county to grant a delay or variance pursuant to Local Government Code §232.043 or a rule of the county adopted pursuant to such provision.

(b) Purpose. It is the purpose of this section to promote the public health of the county residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the jurisdiction of this county, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the county.

(c) Required plat. In the event that the owner of a tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the commissioner's court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the 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 that does not comply with the provisions of §§364.15(b) of this title (sale restrictions), 364.36 of this title (Setbacks), 364.37 of this title (Number of Dwellings per Lot), 364.52 of this title (Final Engineering Report), and 364.54 of this title (Financial Guarantees for Improvements) as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of these rules so that the public health, safety, and welfare may be secured and substantial justice done.

(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:

(A) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989.

(B) the name and address of the original subdivider or the subdivider's authorized agent, if known.

(C) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and

(D) a deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.

- (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:
  - (A) the lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original subdivider.
  - (B) a plat was required for the subdivision, but has not been filed with the county by the subdivider legally obligated to file it;
  - (C) an existing, currently occupied residential dwelling is located on the lot;
  - (D) existing water and sewer services which comply with the minimum standards set forth herein are available to the lot; and
  - (E) the request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to 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.

#### **Division 4. Enforcement.**

**§364.71. 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.

**§364.72. General Enforcement Authority of County.** The provisions of this chapter are enforceable pursuant to the specific provisions hereof related to enforcement and state law including Water Code, Chapter 7 and §§16.352, 16.353, 16.3535, 16.354, and 16.3545, and Local Government Code, §232.037 and §232.080.

## MODEL SUBDIVISION RULES APPENDICES

### Figure: 31 TAC §364.32(a)(1)

#### APPENDIX 1A. SAMPLE FORM FOR WATER SERVICE AGREEMENT

##### AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED SUBDIVISION

PARTIES: This Agreement is by and between the Utility and the Subdivider, to wit: The Utility is the governing board or owner of a retail public utility that supplies drinking water known as \_\_\_\_\_.

The Subdivider is \_\_\_\_\_, who is the owner, or the authorized agent of the owner, of a tract of land in \_\_\_\_\_ County, Texas, that has been proposed to be divided into a subdivision (the Subdivision) known as \_\_\_\_\_.

TERMS: This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to \_\_\_\_\_ County for its approval. The Subdivider plans to construct for the Subdivision a drinking water distribution system to be connected to the Utility's public water system. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the drinking water flow anticipated to be needed by the Subdivision under fully built-out conditions (the anticipated water flow) to be approximately \_\_\_\_\_ gallons daily.

The Utility covenants that it has or will have the ability to provide the anticipated water flow for at least thirty years, and that it will provide that water flow. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision's water distribution system has been connected to the Utility's water supply system.

The Subdivider covenants that the water distribution system will be constructed as shown in the Plans and as provided for through the plat-approval process so that the residents of the lots of the Subdivision may receive drinking water service from the Utility. Upon completion of the water distribution system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all rights and titles to the water distribution system.

The Subdivider has paid the Utility the sum of \$ \_\_\_\_\_ which sum represents the total costs of water meters, water rights acquisition fees, and all membership or other fees associated with connecting the individual lots in the Subdivision to the Utility's water supply system.

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by \_\_\_\_\_ County or by a municipality whose approval is required.

By affixing their signature to this Agreement, the person signing for the Utility warrants that he or she

is authorized to sign this Agreement on behalf of the Utility. By affixing their signature to this Agreement, the person signing for the Subdivider warrants that they are authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on \_\_\_\_\_, 20\_\_\_\_.

The Utility

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Office or Position: \_\_\_\_\_

Date: \_\_\_\_\_

The Subdivider

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Office or Position: \_\_\_\_\_

Date: \_\_\_\_\_

**Figure: 31 TAC §364.33(a)(2)**

**APPENDIX 1B. SAMPLE FORM FOR WASTEWATER SERVICE AGREEMENT**

**AGREEMENT REGARDING WASTEWATER SERVICE FOR THE PROPOSED  
SUBDIVISION**

**PARTIES:** This Agreement is by and between the Utility and the Subdivider, to wit: The Utility is the governing board or owner of a retail public utility which provides wastewater treatment and is known as \_\_\_\_\_.

The Subdivider is \_\_\_\_\_, who is the owner, or the authorized agent of the owner, of a tract of land in \_\_\_\_\_ County, Texas, that has been proposed to be divided into a subdivision (the Subdivision) known as \_\_\_\_\_.

**TERMS:** This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board's Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to \_\_\_\_\_ County for its approval. The Subdivider plans to construct for the Subdivision a wastewater collection system to be connected to the Utility's wastewater treatment system. Such wastewater will consist of domestic sewage, i.e., waterborne human waste and waste from domestic activities such as bathing, washing, and food preparation. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the wastewater flow projected from the Subdivision under fully built-out conditions (the projected wastewater flow) to be approximately \_\_\_\_\_ gallons daily.

The Utility covenants that it has or will have the capacity to treat the projected wastewater flow, and that it will treat that wastewater flow for at least thirty years. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded, and the Subdivision's wastewater collection system has been connected to the Utility's wastewater treatment plant.

The Subdivider covenants that the wastewater collection system will be constructed as shown in the Plans and as provided for through the plat approval process so that the residents of the lots of the Subdivision may receive wastewater treatment service from the Utility. Upon completion of the wastewater collection system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all rights and titles to the wastewater collection system.

Insert the following paragraph if the Utility imposes any fees for connection of individual lots to the Utility's wastewater collection and treatment system: The Subdivider has paid the Utility the sum of \$ \_\_\_\_\_, which sum represents the total costs of tap fees, capital recovery charges, and other fees associated with connecting the individual lots in the Subdivision to the Utility's wastewater collection and treatment system.

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by \_\_\_\_\_ County or by a municipality whose approval is required.

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

This Agreement is effective on \_\_\_\_\_, 20\_\_\_\_.

The Utility

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Office or Position: \_\_\_\_\_  
Date: \_\_\_\_\_

The Subdivider

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Office or Position: \_\_\_\_\_  
Date: \_\_\_\_\_