

SAN PATRICIO COUNTY SUBDIVISION RULES

As Amended and Restated, January 16, 2007

Effective January 16, 2007

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SECTION A. GENERAL PROVISIONS

1. Authority

These rules are adopted under the constitution and laws of the State of Texas, including in particular Chapters 232 and 233 of the Texas Local Government Code, Chapter 366 of the Texas Health & Safety Code, and Subchapter J of Chapter 16 of the Texas Water Code.

2. Applicability; Location of Land

a. These rules apply when land in San Patricio County outside of a municipality is being divided into parts. For all such divisions of land, the owner or owners thereof and their agents shall comply with the requirements of these rules and applicable state and federal laws. A division of a tract includes any division, regardless of whether it is made by using ameties and bounds description in a deed of conveyance or in a contract for deed, by using a contract of sale or other executory contract to convey, or by using any other method.

b. The extraterritorial jurisdiction (ETJ) of a municipality (or "city" herein) generally extends for a distance beyond the city's limits that can vary from 1/2 mile up to 5 miles. Municipalities are required by § 41.001 of the Local Government Code to maintain current maps of their boundaries and extraterritorial jurisdictions. Such records allow determination of whether land proposed to be subdivided is situated outside the corporate limits of a municipality and whether the land is situated outside the chapter 42 ETJ or chapter 212 ETJ of any municipality.

3. Overlap of Municipal and County Subdivision Regulations under Texas Local Govt. Code, Chapter 242

For an area in a municipality's extraterritorial jurisdiction as defined by Texas Local Government Code sections 42.021 and 212.001, a subdivision is subject to regulations of both the municipality and San Patricio County. If a municipal regulation conflicts with a county regulation, the more stringent provision prevails. In San Patricio County, a city with a population (by census) of 5,000 generally has an *ETJ* under section 212.001 that extends for 5 miles from its city limits.

4. Municipal ETJ Extension and Adjustment

When a city's ETJ expands, it may not, under Local Government Code § 42.022, include any area in the existing ETJ of another city. A city may consent to a reduction in its ETJ, thereby yielding the territory to regulation as part of another city's ETJ.

5. Effective Date; Repealer; Severability

These rules effective on the first day of February, 2006. The San Patricio County Subdivision Rules adopted November 1, 2000, are hereby repealed, except as to such sections which are retained.

herein, but they remain in effect for the purpose of prosecuting a civil or criminal suit for a violation or offense that occurred there under. If any part or provision of these rules or application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these rules or the application thereof to other persons or circumstances. The Commissioners Court hereby declares that it would have enacted the remainder of these rules without any such part, provision, or application.

6. Amendment

These rules may be amended from time to time by the San Patricio County Commissioners Court as provided by law.

SECTION B. DIVISIONS OF LAND OUTSIDE THE CORPORATE LIMITS OF A MUNICIPALITY

CHAPTER 1 - GENERAL AND ADMINISTRATIVE PROVISIONS

1.1 Applicability

- A. This title generally applies when a tract of land outside the corporate limits of a municipality is divided into two or more parts. Specifically, the rules in Section B (which together with the related appendices are referred to as "these Rules") apply when the tract of land is being divided into two or more parts to layout a subdivision of the tract, including an addition; lots; or 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. A division of a tract under this section 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.
- B. The provisions of Section B.1.1.A. notwithstanding, this title does not apply to divisions of land described in Tex. Local Government Code § 232.0015, which currently reads as follows:

§ 232.0015. Exceptions to Plat Requirement

- (a) To determine whether specific divisions of land are required to be platted, a county may define and classify the divisions. A county need not require platting for every division of land otherwise within the scope of this subchapter.
- (b) This subchapter does not apply to a division of land to which Subchapter B applies.
- (c) A 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 layout a part of the tract described by Section 232.001(a)(3); 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.
- (d) If a tract described by Subsection (c) ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of this subchapter apply.
- (e) A 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 layout a part of the tract described by Section 232.001 (aX3) to have a plat of the subdivision prepared 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, the platting requirements of this subchapter apply.

(f) A 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) all of the lots of the subdivision are more than 10 acres in area; and
- (2) the owner does not layout a part of the tract described by Section 232.001(a)(3).

(g) A 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 layout a part of the tract described by Section 232.001(a)(3) to have a plat of the subdivision prepared if all the lots are sold to veterans through the Veterans' Land Board program.

(h) 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 described by Section 232.001(a)(3).

(i) A 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;
- (2) the land is situated in a floodplain; and
- (3) the lots are sold to adjoining landowners.

(j) A 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 layout a part of the tract described by Section 232.001(a)(3); and
- (2) one new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of this chapter.

(k) A 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 layout a part of the tract described by Section 232.001(a)(3); and
- (2) all parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.

1.2 General Requirement; Plat Required

For any division of land subject to this title, the owner or owners thereof and their agents shall comply with the requirements of these Rules and applicable state and federal laws. In particular and without limitation, the owner of the tract of land must have a plat prepared and recorded in accordance with these Rules, Chapter 232 of the Texas Local Government Code, Chapter 12 of the Texas Property Code, and (if the land is within a

municipality's ETJ under Texas Local Government Code §§ 42.021 and 212.001) the municipality's subdivision rules and Chapter 212 of the Texas Local Government Code.

1.3 Responsibility for Costs

The owner or owners of the land being subdivided shall be responsible for costs of improvements as required by these Rules.

1.4 Conflict of Interest & Penalty under Local Govt. Code § 232.0048

- A. In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.
- B. A person has a substantial interest in a subdivided tract if the person:
 - 1. has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more;
 - 2. acts as a developer of the tract;
 - 3. owns 10 percent or more of the voting stock or shares of or owns either 10 percent or more or \$5,000 or more of the fair market value of a business entity that:
 - a. has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more; or
 - b. acts as a developer of the tract; or
 - 4. receives in a calendar year funds from a business entity described by subdivision 3 that exceed 10 percent of the person's gross income for the previous year.
- C. A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another person who, under subsection B, has a substantial interest in the tract.
- D. If a member of the Commissioners Court of a county has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.
- E. A member of the Commissioners Court of a county commits an offense if the member violates subsection D. An offense under this subsection is a Class A misdemeanor.
- F. The finding by a court of a violation of this section does not render voidable an action of the Commissioners Court unless the measure would not have passed the Commissioners Court without the vote of the member who violated this section.

1.5 Division of Land for Manufactured Home Rental Community

No formal plat shall be required for a manufactured home rental community, unless the manufactured home rental community also constitutes a subdivision governed by Section C. For the purposes of this provision, a "manufactured home rental community" means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than sixty (60) months without a purchase option, exclusively for the installation of manufactured homes for use and occupancy as residences. The requirements of this provision notwithstanding, a manufactured home rental community must comply with the rules or regulations of San Patricio County regarding OSSF and the rules of the Texas Natural Resource Conservation Commission governing the use of on-site sewerage facilities.

1.6 Definitions

A. Rules of Definition: Words used in the present tense shall include the future unless the context indicates otherwise, words used in the singular number shall include the plural, and words used in the plural number shall include the singular.

B. Definitions of words and terms: The following words and terms, when used in these Rules, shall have the following meanings unless the context indicates otherwise. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in governmental planning and engineering practices.

"Block" means a piece or parcel of land typically surrounded by public streets on no fewer than three (3) sides normally containing several lots or the equivalent area.

"Building line" or "building set-back line" means a line established, in general, parallel to the property line, between which and such property line, no part of a building shall project.

"Commissioners Court" or "Court" means the duly elected Commissioners Court of San Patricio County, Texas, acting in its official capacity.

"Comer Lot" means a lot which is located adjacent to, or abutting, two intersecting streets, roads or highways.

"County Engineer" means an Engineer who has been appointed, employed or retained by the Commissioners Court to be responsible for review of all engineering matters concerning compliance of proposed subdivisions with these Rules.

"Drainage easement" means an interest in land granted to the public generally, to a political subdivision of the state and/or to an individual land owner, for installing or maintaining drainage ditches, pipelines, box structures or other facilities for the conveyance of storm

or runoff water across, over, or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said facilities.

"Easement" means an interest in land granted to the County, to the public generally, and/or to a utility corporation or political subdivision of the State of Texas for a specific purpose or purposes over, across, or under private land, together with the right to enter thereon with vehicles and machinery necessary for the maintenance of said interest. Unless an easement is dedicated and accepted in writing, the County shall not be obligated to maintain it.

"Engineer" means a person duly authorized under the provisions of the Texas Engineering Practice Act (Revised Civil Statutes art. 3271a) to practice engineering, or a firm employing such persons and practicing engineering in compliance with the Texas Engineering Practice Act.

"ETJ" means extraterritorial jurisdiction (see below).

"Extraterritorial jurisdiction" means the land area surrounding a municipality's corporate limits as determined, depending upon the context, by Texas Local Government Code § 42.021 (for a distance that increases with a municipality's population) or § 212.001 (for a distance of five miles for a municipality with population of 5,000 or more).

"Final plat" means a map or drawing showing the proposed subdivision and any accompanying material prepared as described in these Rules and state law.

"Flood Insurance Rate Map" means an official map or plat showing boundaries of flood zones published by FEMA (the Federal Emergency Management Agency) for the National Flood Insurance Program.

"Floodplain" means any area in the 100-year floodplain that is susceptible to being inundated by water from any source or that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 through 4127).

"Irrigation easement" means an interest in land granted to the public generally, to a political subdivision of the state or to an individual land owner, for installing or maintaining irrigation ditches, canals, pipelines and structures across, over, or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said irrigation facilities.

"Lot depth" means the length of a line connecting the mid-points of the front and rear lot lines, which line shall usually be at right angles to the front lot line or radial to a curved lot line.

"Lot width" means the length of a line (drawn perpendicular to the lot depth line) connecting the side lot lines at the building setback line or at a point no farther than 35 feet from the front lot line, if the length at such point is greater.

"Monument" means a concrete monument, an iron rod, an iron pipe or other such evidence used to mark the boundaries of subdivisions and lot or block corners.

"100-Year Flood" -Means a flood of such magnitude as may reasonably be expected to be equaled or exceeded on an average of once every 100 years; the term also means that level of flooding having a one (1) percent probability of occurrence in any year.

"Pavement width" means the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the faces of the curbs.

"Person" means an individual, firm, corporation, or other legal entity.

"Preliminary plat" means the drawing or map and accompanying documents prepared in accordance with these Rules in which the plan for a subdivision is initially presented by the subdivider to the County.

"Plat" means "final plat" as defined above. A replat or resubdivision is considered a plat.

"Private street" means a vehicular access way under private ownership and maintenance providing access to buildings containing residential dwelling units or any park located more than 300 feet from an approved public street right-of-way. A private street shall also include any vehicular access to three or more residential units. Parking lots and private driveways within shopping centers, institutions, commercial areas, and industrial developments will not be considered as private streets.

"Public street" means an area, parcel, or strip of land that provides primary vehicular access to adjacent property or land and provides general community vehicular circulation (whether designed as a street, highway, freeway, thoroughfare, avenue, lane, boulevard, road, place, drive, or however otherwise designated) and that is dedicated or granted for public purposes.

"Residential use" includes single-family residential uses; two-family uses; and multi-family residential apartment or townhouse uses.

"Right-of-way" or "ROW" means the area within the outermost boundaries of a street or road, including the area for a constructed watercourse or drainage ditch.

"Shall" is mandatory and "may" is permissive.

"Street" means a ROW, however designated, which provides primary vehicular access to adjacent land. See also "Public street" defined above and the classifications of streets in section 2.2 of these Rules.

"Surveyor" means a licensed state land surveyor or a registered professional land surveyor, as authorized by the Texas Professional Land Surveying Practices Act (Revised Civil Statutes art. 5282c) to practice the profession of surveying.

"Utility easement" means an interest in land granted to the public generally or to a private or public utility corporation or political subdivision of this state, for installing or maintaining utilities across, over, or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

CHAPTER 2-GENERAL SUBDIVISION DESIGN

2.1 General Principles

- A. This chapter contains many general design requirements. Further specific requirements for construction of streets and drainage are contained in the Appendix.
- B. Layout. The subdivision layout shall make reasonable provisions for development of adjacent land.
- C. Name of Subdivision. Duplication of subdivision names shall be prohibited.

2.2 Classifications of Streets

Streets are classified as follows:

- A. "Farm to Market Road" means a road so designated by the Texas Department of Transportation. It shall have a right-of-way of not less than 120 feet.
- B. "Main Arterial street" means a public street which provides for the major vehicular circulation, or cross-towns, loops, by-pass, or radial routes of the region, county, or city, other than a Farm to Market Road. Such a street is typically over 5 miles in length. It shall have a right-of-way width of not less than 60 feet or more than 100 feet and a pavement width of not less than 32 feet or more than 56 feet.
- C. "Collector street" means a public street which provides for expeditious movement of vehicular traffic within a neighborhood, collecting traffic from minor streets and connecting to other major streets. Such a street is typically 2 to 5 miles in length. It shall have a right-of-way width of not less than 60 feet or more than 100 feet and a pavement width of not less than 32 feet or more than 56 feet.

D. "Minor street" means a street which is used primarily for access and circulation to abutting residential properties and which is intended to serve traffic within a limited area. Such a street is typically less than 2 miles in length. It shall have a right-of-way width of not less than 60 feet or more than 70 feet and a pavement width of not less than 25 feet or more than 35 feet.

E. "Alley" means a minor public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a "public street" as that term is defined herein.

F. "Cul-de-sac" means a short public street having but one opening or access to another public street and terminating in a vehicular turn-around.

G. "Dead-end street" means that portion of a public street which initially has only one opening or access to another public street but which will be extended at a later date.

2.3 Non-applicability to Various Driveways and Parking Lots

Notwithstanding the foregoing classifications, the following shall not be considered to be within the purview of these Rules:

A. Any driveway designed or used principally to provide vehicular access to the outbuildings appurtenant to any principal building, or to provide vehicular access to a delivery platform or an entrance of a building appropriate for the delivery thereto of goods or merchandise, and located wholly on private property.

B. An area appurtenant to a store or a group of stores, a theater, a church, or any similar establishment, designed or used primarily for a vehicular parking lot or vehicular parking facilities by customers, patrons, or employees of the establishment or group of establishments in question.

C. An entrance or roadway designed or used to provide either vehicular entrance to or communication or passage between the several units of a single industrial or commercial establishment or group of such establishments which are under common control or management; provided such industrial or commercial entranceway or roadway shall be considered a public street under the terms of these Rules if it has entrances upon two or more public streets unless there are at each of such entrances gates, chains, or watchmen by which all persons are prevented from using the same except those employed by or having business to conduct at such industrial or commercial establishment in question.

D. An entrance or driveway designed or used to provide principal or primary vehicular access to any apartment building or a group of apartment buildings designed for multi

family occupancy and under one ownership. Such entrance or driveway shall not be used to provide public access to adjacent areas.

E. A private street, provided that such private street shall be considered a public street under the terms of these rules if it has intersections with two or more public streets unless there are at each of such intersections gates, chains or watchmen by which unauthorized persons are prevented from using such street.

2.4 Street and Alley Layout

A. General -The street pattern of a neighborhood shall provide adequate circulation within the subdivision and yet discourage excessive through traffic on minor or local streets. The arrangement, character, extent, width, grade, and locations of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and to the proposed uses of the land to be served by such streets. If any portion of a collector or main arterial street traverses any part of the land being subdivided, that portion of the main or collector street, as planned at the proposed right-of-way width, shall be incorporated in the subdivision plat and shall be dedicated to the appropriate government. The street layout shall be devised for the most advantageous development of the entire neighborhood and shall conform to connecting streets in land adjacent to the new subdivision. Provisions shall be made within the subdivision to provide street access to adjacent undeveloped acreage in such a way as to assure adequate circulation for future development. Dead-end streets and those which do not conform to adjacent established streets are to be avoided whenever possible. Dead end streets shall be terminated with a temporary cul-de-sac easement which will be automatically abandoned upon the extension of a street into adjacent properties. Where a subdivision abuts or contains an existing or proposed major street, reverse frontage lots may be appropriate. When reverse frontage lots are designated, access shall be denied to the major street, and screen planting or a screening device shall be provided along the rear property line abutting such existing or proposed major streets. Paved alleys shall be provided in commercial and industrial developments, except where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with an adequate plan for the uses proposed. The street system layout shall be so designed, insofar as practicable, to preserve natural features such as trees, brooks, hilltops, and scenic views and other such features. There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use. The street system layout shall provide for the acceptable disposal of storm water, and provision shall be made by the subdivider to handle storm water to comply with provisions elsewhere in these Rules and other regulations of the County.

B. Minimum Right-of-Way Width Requirements -including streets in commercial and industrial subdivisions:

Farm to Market Road -120 feet.

- Main Arterial Streets -not less than 100 feet;
- Collector Streets -not less than 80 feet;
- Minor Streets -not less than 60 feet.

Where proposed streets are extensions of existing or planned streets, having a right-of-way width greater than that specified herein, the proposed streets shall be the same width as the existing or planned streets. Where the proposed subdivision abuts upon an existing street that does not conform to these width requirements, the subdivider shall dedicate right-of-way sufficient to provide for the full right-of-way width. Alleys are not permitted, unless required by a municipality exercising jurisdiction over the subdivision within its ETJ. Where required by a municipality, alleys shall conform to the municipality's requirements.

C. Curves -The minimum centerline radius on curves shall be 2,000 feet for a Main Arterial, 800 feet for a Collector, and 100 feet for a Minor street. The minimum tangent distance between reverse curves shall be 100 feet.

D. Offsets -Street centerlines, if offset, must be offset a minimum distance of 125 feet on centerline. Offset distances shall be indicated on the final plat.

E. Intersections

1. All streets and alleys are to intersect at a 90 degree angle with departures of more than 20 degrees subject to approval through the variance procedure upon evidence of good cause such as topography. Corners are to be rounded or have a corner clip or radii as shown below:

- a. Farm to Market - 50' tangent clip
- b. Main Arterial - 50' tangent clip
- c. Collector - 25' tangent clip or radii
- d. Minor - 25' external tangent clip or radii, or 15' internal tangent clip or radii, as applicable.

1 Acute angle intersections, as may be approved, are to have 30 foot additional radii at acute corners.

2 Street or alley intersections with or extending to meet an existing street or alley, will be tied to the existing street or alley on centerline, with dimensions and bearings to show the relationship.

F. Cul-De-Sac Streets

1. Turn-arounds are to have a minimum right-of-way radius of fifty feet (50') for single family use where curbed and guttered; a radius of sixty feet (60') for single

family use where a rural section is utilized; and a one hundred feet (100') radius for apartment, commercial, or other uses.

2 Maximum length of cul-de-sac streets shall be 600 feet as measured from the centerline of intersection to cul-de-sac radius point.

3 Temporary turn-arounds, conforming to the minimum radii requirements, are to be used where improvements are not installed at the end of a street which will be extended in the future. The following note shall be provided on the final plat when a temporary turn-around is used: "Cross-hatched area is temporary easement for turn-around until street is extended (direction) in a recorded plat."

- G. Street Names -The names of proposed streets shall conform to the names of existing street of which they may be or become extensions, and shall not duplicate or conflict with the recognized name of any other street located in the area subject to these regulations.

The subdivider shall provide street signs and posts as per County standards, and traffic control signs as may be required by the County.

2.5 Street and Paving Standards

Streets shall be designed and constructed in accordance with the Standard Specifications for Construction of Highways, Streets and Bridges, (latest edition), as published by the Texas Department of Transportation, and in accordance with Appendix 4 hereof.

2.6 Drainage Standards

Drainage shall be designed in accordance with the requirements in these Rules and current plans adopted by San Patricio County Drainage District. Where further guidance for construction specifications is needed the latest edition of Standard Specifications for Construction of Highways, Streets and Bridges, as published by the Texas Department of Transportation or other appropriate standards shall control.

2.7 Easements for Utilities and Irrigation Facilities

- A. When not located in an alley having a width of 20 feet or more, the location and width of necessary utility easements shall be determined by the public and private utility companies and shall connect with easements established in adjoining properties. Easements shall not be less than 15 feet in width.
- B. There also shall be shown on the plat and dedicated for utilities unobstructed aerial easements and guy wire easements as may be required for overhead facilities.

- C. Easements as set forth in any applicable County or regional plan for the location of future sewerage or utility facilities shall be provided and indicated upon the plat.
- D. In rural areas where the future utility needs have not yet been established, easements will be dedicated along all rear lot lines and along side lot lines as deemed necessary.
- E. The location and width of necessary irrigation easements shall be determined by the irrigation or water control and improvement district, or private property owner holding the dominant estate and shall connect with easements established in adjoining properties. Easements shall not be less than 15 feet in width.

2.8 Blocks and Lots

- A. Block Length -The minimum and maximum block length are 300' and 1,300' respectively, as measured along the center of the block or street.
- B. Lots -In general, the lot design shall provide for lots of adequate width, depth, and shape to provide open area, to eliminate over-crowding, and to be appropriate for the location of the subdivision and for the type of development and use contemplated. Lots shall have the side lot lines at right angles to the streets on which the lot faces, or radial to curved street lines.

2.9 Septic Tanks

If a subdivision is proposed to contain buildings containing restroom or kitchen facilities and is not to be served by a public sanitary sewer system, and septic tanks or other on-site sewage facilities ("OSSF") are to be used, lot sizes shall be adequate to accommodate the size of drain field as necessary, because of soil type, to effectively absorb the effluent without creating a health hazard or nuisance. The rules, requirements, and procedures adopted by the San Patricio County Commissioners Court, or in the most recently adopted OSSF Order, shall apply to all of the area of San Patricio County except for the areas within boundaries of any municipality in San Patricio County. In no event shall applicable state laws, regulations as may be established by separate regulation, or the orders of the Texas Natural Resource Conservation Commission be violated. Septic tanks are restricted in all Floodplain Hazard Areas within the County and may be prohibited in certain other areas as may be determined by the Commissioners Court upon the recommendation of the County Health Department. A preliminary conference with the County Health Department is highly recommended to determine the suitability of an area for development using septic tanks for sewage disposal.

2.10 Survey Monuments

Monuments shall be permanent in nature and suitable for the purpose intended. Concrete monuments are recommended at subdivision corners, and each lot and block corner shall be

marked by not less than a W' diameter by 24" long reinforcing rod set at or below the existing ground level. At least two concrete monuments shall be located at readily accessible sites within each subdivision. Monuments shall be set by or under the supervision of a surveyor prior to presentation of the Final Plat.

CHAPTER 3 -STANDARD SUBMISSION & REVIEW PROCEDURES

3.0 Timely Approval of Plats

- A. These Rules and the applicable appendices shall constitute a written list of the documentation and other information that must be submitted with a plat application. An application submitted to the County Judge that contains the documents and other information required in these Rules and the applicable appendices is considered complete.
- B. If a person submits a plat application to the County Judge that does not include all of the documentation or other information required by Subsection A, the County Judge shall, no later than the tenth (10th) business day after the date the County Judge receives the application, notify the applicant of the missing documents or other information. No further action will be taken on the application until all documentation or other information contained in the notice is submitted to the County Judge.
- C. Acceptance by the County Judge of a complete plat application shall not be construed as approval of the application or the information or documentation contained therein.
- D. Except as provided by Subsection F of this section, the Commissioners Court shall take final action on a preliminary or final plat application, including the resolution of all appeals, not later than the sixtieth (60th) day after the date a completed plat application is received by the County Judge.
- E. If the Commissioners Court disapproves a plat application, the applicant shall be given a complete written list of the reasons for the disapproval within ten (10) business days of the date of disapproval.
- F. The County may not compel an applicant to waive the time limits contained in this Section.
- G. If the Commissioners Court fails to take final action on a complete plat application as required by Subsection D:
 - 1. The Commissioners Court shall direct the County Treasurer to refund to the applicant the greater of the unexpended portion of any plat application fee or deposit or fifty percent (50%) of the plat application fee or deposit that has been paid;
 - 2. The plat application is granted by operation law; and
 - 3. The applicant may apply to a district court with civil jurisdiction in the county for a writ of mandamus to compel the Commissioners Court to issue documents recognizing the approval of the plat.
- H. A processing fee of \$ shall be paid to the County upon the filing of an application for plat approval required by these Rules.

3.1 General Procedure

The general procedure ultimately leading to the recording of a subdivision plat is the following sequence of steps:

- A. Preliminary conference (optional but highly recommended).

- B. Submission of pre-application variance request (optional and only if information on the preliminary plat is not required for determination of variance).
- C. Submission, review, and approval of preliminary plat (with concurrent consideration of variance request or requests).
- D. Modification of preliminary plat and fulfillment of any conditions of preliminary plat approval.
- E. Submission, review, and approval of final plat (with concurrent consideration of variance request or requests).
- F. Posting of bonds or other financial guarantees.
- G. Release of final plat for recording.
- H. Recording of final plat in the map records of San Patricio County.

3.2 Preliminary conference

The owner or the owner's engineer is strongly urged to meet with the County Judge to discuss any proposed subdivision or development. In this manner certain concerns and requirements can be addressed prior to expending time and money on property which cannot be developed in compliance with these rules or for which it is uneconomical to do so. A preliminary conference is not required, and any agreement reached with staff personnel is not binding upon the Commissioners Court.

3.3 Application for Plat Approval and Log of Items Submitted

- A. The application for approval of a plat shall be filed in the County Judge's office by the record owner of the property to be subdivided or the owner's duly authorized agent. If the application is submitted by the owner's agent, then the agent shall submit such information as is necessary to verify that the agent has the authority to submit for and bind the owner by his actions on a form to be provided by the County Judge. The application shall have attached a copy of the deed or deeds showing the ownership of the land.
- B. The County Judge shall keep a log that identifies, for each document submitted during the process of seeking subdivision approval, a sequential log number, a description of the document, the date received, and the initials of the person making the log entry. The log number shall be written upon the document and the information shall be entered upon the log promptly after the document is received by the County Judge.

3.4 Preliminary Plat Processing

- A. The County Judge will review preliminary plat applications as submitted for completeness within ten (10) business days following filing of the plat application. If the submission is substantially complete and a recommendation can be made to the Commissioners Court based on the information contained therein, the preliminary plat

will be put on the desired agenda date for action by the Commissioners Court. If the submission is not substantially complete, then a letter detailing the required additional information will be sent to the subdivider within ten (10) business days following the filing of the plat application. Once the requested information is provided, the preliminary plat will be processed in the same manner as an original submission, and this procedure shall continue until such time as a recommendation can be made to the Commissioners Court for its consideration.

- B. Preliminary plats may be approved as submitted, approved conditionally, or disapproved. If approved conditionally or disapproved, the reasons for such conditional approval or disapproval shall be stated in a letter from the County Judge.
- C. The approval of a preliminary plat shall be good for a period of twelve (12) months from the date of Commissioners Court action. If eleven months after approval the County has not received information which would necessitate revision of a preliminary plat, then upon written application by the owner before the end of the twelve month period, the Commissioners Court may extend the approval for an additional period of six (6) months.
- D. Preliminary plats which expire due to inactivity within the twelve (12) or six (6) month period noted above shall be required to be resubmitted as any new subdivision.

3.5 Preliminary Plat Submission Requirements

- A. Form. The preliminary plat shall be drawn to a minimum scale of 1" = 100'. The preliminary plat shall be drawn on sheets twenty-four inches (24") wide and thirty-six inches (36") long, with a binding margin of not less than two inches (2") on the left side of the sheet and margins on the other three sides of not less than one-half inch (1/2"). A 3" x 5" area on each page, within the margins and preferably in the lower right-hand corner, shall be enclosed by a heavy line and be left blank in order to allow space for officials to note approvals or other actions on the plat. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.

The use of stickybacks, press on lettering, or transfer lettering which may lift, separate, or be removed from the original plat over a period of time shall not be accepted. Sepias or other diazo process reproducibles which may fade are also not acceptable.

- B. Coverage. The preliminary plat shall include topographic information on all land within five hundred feet (500') of the proposed subdivision.
- C. Quantity. The owner must submit seven (7) blue-or black-line copies of the complete set of the preliminary plat and its supporting information.

- D. Required Supporting Information. The following information shall be provided with or upon the preliminary plat. Proposed topographic and utility details may be shown on the preliminary plat or on a separate plat for clarity. All work by an engineer or a surveyor must be signed, sealed, and dated.
1. Legal description. The legal description of the land to be subdivided shall be sufficient for the requirements of title examination.
 2. Statement of conformance or list of variances. The statement shall declare that the preliminary plat (including its supporting information) conforms to these Rules (including the associated Appendices) or shall list the instances in which it does not comply with these Rules, the reason for each such non-compliance, and whether a variance is requested.
 3. Location map. A location map or sketch at a scale of not more than 4000 feet to one inch shall show the proposed subdivision, existing adjacent subdivisions, school district lines, and state and county roads in the vicinity.
 4. Vicinity map. A vicinity sketch or map at approximately 1" to 400' scale shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities, tracts of acreage in the vicinity, the general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric, and sanitary sewer connections by arrows.
 5. Location with respect to any municipal ETJ line. A statement of the whether any part of the proposed subdivision lies within any extraterritorial jurisdiction of a municipality (under Texas Local Govt. Code § 42.021 or 212.001) shall be provided. If an ETJ line traverses the subdivision, it shall be delineated and identified upon the preliminary plat.
 6. Map of earlier plat. If the subdivision is part of a previously filed subdivision plat, a map shall be provided showing the portion of the earlier-filed plat that is owned by the subdivider and included in the preliminary plat.
 7. Restrictive covenant. Any restrictive covenants proposed to be imposed for the subdivision should be attached for reference. It should be noted whether these are existing or proposed and if proposed, at what time they will be recorded, prior to or subsequent to the recording of the final plat.
 8. Certification by the owner of conformance or submittal for review. The owner shall certify:

- a. that the preliminary plat has been reviewed by and conforms to the requirements of the school district, the gas, electricity, water, telephone, and television cable companies, irrigation or water control and improvement districts and the U.S. Post Office; or,
- b. that the agencies mentioned in the preceding paragraph were given at least ten (10) working days to review the proposed preliminary plat.

This certification shall be in letter form and shall include the name, title, address, and telephone number of the person to whom the subdivider delivered the preliminary plat for review.

E. The preliminary plat shall:

- 1 include the name, address, and telephone number of the record owner(s) of lands being subdivided, and of the engineer, the surveyor, and any other persons responsible for the preparation of the data and information being submitted;
- 2 include the subdivision name, which shall not duplicate the spelling or the pronunciation of any existing subdivision in the County;
- 3 delineate the boundary of the subdivision by metes and bounds sufficiently for the requirements of title examination. Subdivision boundaries shall be indicated by a heavy line at least 1/16 inch wide. The total acreage in the subdivision shall be noted;
- 4 locate the subdivision with respect to an original corner of an original survey of which it is a part;
- 5 show the primary control points or description used to establish the subdivision. The description, location, and tie to such control points, including all dimensions, angles, bearings, block numbers, and summary data, shall be noted;
- 6 note the existing conditions within or immediately adjacent to the subdivision, including the:
 - a. location, dimension, name, and description of each existing or recorded street, alley, reservation, easement, or other public rights-of-way or visible private encumbrance upon the land within or adjacent to the subdivision, intersecting or contiguous with its boundaries, or forming such boundaries, including the name of the subdivision in which such street, alley, etc., is located;

- b. location, dimension, description, and flow line of any existing water courses, drainage structures, or irrigation structures within the subdivision or within one-hundred and fifty feet (150') of the boundary of the subdivision;
 - c. location, dimension, description, and name of all existing or recorded lots and blocks, parks, public areas, or permanent structures within the subdivision or contiguous with the subdivision;
 - d. location, dimension, grade, description, and name of all existing water, sewer, electric, gas, telephone, television cable, irrigation or other utilities;
7. show the adjoining property owners' names and references to the deeds under which they hold ownership, or if the adjoining property is within a recorded subdivision, state the subdivision's name and provide the reference for where its plat is recorded in the Map Records of San Patricio County;
8. note the date of preparation, date of survey, the scale of the plat, and the North arrow;
9. include topographic information, including contour lines for every one vertical foot. The information shall include the flow lines of existing gutters and drainage ways. It shall be sufficiently detailed to determine the existing drainage to and from the proposed subdivision and to determine the adequacy of the proposed drainage plan. Elevations shall be based on published U.S.C. & G.S. datum and the benchmark used shall be noted on the plat;
10. show the proposed general plan for storm water drainage in sufficient detail to indicate the location of drainage ditches or structures and the direction of flow;
11. show the approximate location, dimensions, and description of all proposed street rights-of-way, alleys, drainage structures, parks, squares, other public areas, reservations, easements, other rights-of-way, blocks, lots (lettered or numbered consecutively), permanent survey monuments, and other sites within the subdivision. The proposed width of each proposed street shall be measured at right angles, or radially where curved;
12. name the proposed streets (The name of a proposed street shall conform to the name of an existing street of which it may become an extension but otherwise shall not duplicate or conflict with the recognized name of any other street located in the area subject to these Rules.);

13. show building setback lines, as follows, on all lot lines:
 - (a) FRONT SETBACK: Building shall be setback a minimum of one half (Y2) of the width of the Street right-of-way which it faces, but not to exceed 50 feet if the street is a Farm-to Market Road or Main Arterial Street, or 25 feet if the street is a collector or minor street.
 - (b) SIDE SETBACK: Building shall be setback a minimum of six (6) feet from side property lines.
 - (c) REAR SETBACK: Building shall be setback a minimum of fifteen (15) feet from rear property lines.
 - (d) CORNER SETBACK: Building shall be setback a minimum often (10) feet from the side property line on Corner Lots;
14. show the net area contained within each lot or tract to the nearest one-tenth (1/10) of an acre; and,
15. show the limits of any flood hazard areas and the proposed finish floor elevation of any building within these flood hazard areas.

3.6 Final Plat Processing

- A. Application. The subdivider shall sign and date an application for final plat approval on a form to be provided by the County Judge. On the application the subdivider shall fully describe all infrastructure (streets, drainage facilities, water facilities, wastewater facilities, etc.) that has been completed or installed to serve the subdivision as of the date of the application for final plat approval. As part of the application, the subdivider shall also sign and list all the documents accompanying or attached to the final plat. A set of these documents shall be kept together during the review and approval process and through the recordation of the plat and the identified documents. Any substitutions or additions to the documents to be recorded shall be noted and dated on an addendum to the application form.
- B. The final plat and its accompanying data shall be reviewed by the Commissioners Court within the 60 day period following submission of the complete application. If all required information is contained within the submission and the final plat is complete in every respect, the plat shall be presented to the Commissioners Court for its approval. If the application is incomplete, the County Judge shall make note of such requirements in letters to the subdivider and the engineer or surveyor of record within ten (10) business days of the date of the application.
- C. Upon submission of the requested additional information, the process of review will continue, and this process of review and resubmission shall continue until the application is complete in every respect. The final plat shall then be placed before the Commissioners Court for approval or disapproval. No conditional approval of the final plat shall be granted.

3.7 Final Plat Submission Requirements

- A. Form. The final plat shall be drawn to a minimum scale of 1" = 100'. The final plat shall be drawn on sheets twenty-four inches (24") wide and thirty-six inches (36") long, with a binding margin of not less than two inches (2") on the left side of the sheet and margins on the other three sides of not less than one-half inch (1/2"). A 3" x 5" area on each page, within the margins, and preferably in the lower right-hand corner, shall be enclosed by a heavy line and be left blank except for notations by officials of approvals or other actions on the plat. Where more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The documents attached to or accompanying the final plat that are required to be recorded shall likewise be placed on a sheet or sheets twenty-four inches (24") wide and thirty-six inches (36") long.
- B. General Content. The final plat and its accompanying information shall be complete and in conformance with the approved preliminary plat and its conditions of approval, and shall incorporate all changes, corrections, and conditions required during the preliminary plat approval process. The topography shown on the final plat shall be the post-development topography.
- C. Quantity. Fifteen copies of the final plat and its required supporting information shall be submitted, along with one reproducible original of the final plat itself.
- D. Required Supporting Information. The following information shall be provided with or upon the final plat. All work by an engineer or a surveyor must be signed, sealed, and dated.
- 1 Statement of conformance or list of variances. The statement shall declare that the final plat (including its supporting information) conforms to these Rules (including the associated Appendices) or shall list the instances in which it does not comply with these Rules, the reason for each such non-compliance, and whether a variance is requested.
 - 2 Utility provider letters. Letters from utility providers, including irrigation or water control and improvement districts, other than water and sewer, shall be submitted showing that the utility has reviewed the proposed subdivision, that easements shown on the proposed plat are adequate, and that the subdivider has made all arrangements necessary for the utility company to service the subdivision. All approvals must be dated not more than 6 months prior to the date the final plat application is received. The approval may be noted on the face of the plat in lieu of a letter being provided.
 - 3 Street and drainage plans. Six sets of construction plans and specifications for streets and drainage improvements and the associated construction cost estimates shall be provided. The plans and specifications shall conform to these Rules.
 - 4 Water and sewage plans. When necessitated by the Model Rules, six sets of construction plans and specifications for water and sewer improvements and the associated construction cost estimates shall be provided. The plans and specs shall conform to these Rules.

5. Tax certificates. Tax certificates from the school district, the county, and any other taxing district stating that all ad valorem taxes and flat rate or other assessments have been paid shall be provided.
- E. The final plat shall:
1. be certified by a surveyor or engineer registered to practice in this state;
 2. define the subdivision by metes and bounds;
 3. locate the subdivision with respect to an original corner of an original survey of which it is a part;
 4. describe each lot, number each lot in progression, and give the dimensions of each lot;
 5. state the dimensions of and accurately describe each already existing or recorded lot, street, alley, square, park, reservation, easement, or other right-of-way or encumbrance within the land being subdivided;
 6. state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part;
 7. note the type and location of all monuments and whether each was found or *set*;
 8. describe the general drainage pattern for the area and note all drainage easements, channels, and structures;
 9. identify and describe all easements for utilities and irrigation facilities;
 10. comply with various requirements in Section C, if the subdivision falls within the scope of sections C.1.5(a) and C.2.1 of this title, including requirements related to:
 - a. the minimum standards set out in Chapter 2 of Section C regarding water, wastewater, greywater, sludge disposal, setbacks, and the number of dwelling units per lot.
 - b. the final engineering report described in section C.3 .2.
 - c. the execution of an agreement with the county for the provision of certain improvements, and a bond or other financial guarantee (such as a cash deposit or a letter of credit) securing the agreement, as described in section C.3.4;
 11. note on the face of the plat any variance already granted by the Commissioners Court, along with the date such variance was granted;
 12. note on the face of the plat the requirement that each purchase contract made between a subdivider and a purchaser of the land in the subdivision contain a statement

describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when; and,

13. note minimum floor elevations on each Lot, depicting the minimum finished habitable floor elevation which shall be not less than eighteen (18) inches above the center line of the Street the Lot faces, unless otherwise noted by the Engineer of record and approved by the County in accordance with FEMA maps.
- F. The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

3.8 Review and Approval of Final Plats by Commissioners Court

- A. **Scope of Review.** The Commissioners Court will review the final plat (and its supporting information) to determine whether it meets the requirements of these Rules and state law.
- B. **Disapproval.** The Commissioners Court shall refuse to approve a plat if it does not meet the requirements prescribed by or under these Rules or state law.
- C. **Disapproval of any preliminary plat or final plat by the Commissioners Court shall be deemed a refusal by the County to accept the offered dedications, if any, shown thereon. Approval of a plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the County concerning the maintenance or improvements of any such dedicated parts until the proper authorities of the County have actually appropriated the same by an order of the San Patricio County Commissioners Court, or by entry, use, or improvement.**
- D. **Road and drainage bond requirements.**
 1. The Commissioners Court may require the owner to execute a bond or other financial guarantee to assure the construction of the streets and drainage improvements. The bond must:
 - a. be payable to the county judge or to the judge's successors in office;
 - b. be in an amount determined by the Commissioners Court to be adequate to ensure proper construction of the roads and streets in the subdivision and the drainage improvements, but not to exceed the estimated cost of construction of the roads and streets and the drainage improvements;
 - c. be executed with sureties as may be approved by the Court;
 - d. be executed by a company authorized to do business as a surety in this state if the Court requires a surety bond executed by a corporate surety; and
 - e. be conditioned that the roads and streets and the drainage improvements will be constructed:
 - (1) in accordance with the specifications adopted by the Court; and
 - (2) within a reasonable time set by the Court.
 2. In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee.
 3. If a letter of credit is used, it must:
 - a. list as the sole beneficiary the county judge; and
 - b. be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets in the subdivision and the drainage improvements:

- (1) in accordance with the specifications adopted by the Court; and
 - (2) within a reasonable time set by the Court.
- E. If the subdivision is subject to Section C, a bond or other financial guarantee is required to assure completion of unconstructed water and wastewater facilities.

3.9 Release of Approved Final Plat for Recording

- A. Any variance granted by the Commissioners Court shall be noted on the face of the plat, along with the date such variance was granted, prior to release of the plat for recording.
- B. Upon submission to the County Planning Department of all required bonds and other financial guarantees, and the tender of the recording fee as required by the County Clerk, the County Planning Department will release the plat for recording.
- C. The plat (with its required attachments) must be filed and recorded with the County Clerk. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

CHAPTER 4 -INTENTIONALLY OMITTED

CHAPTERS-VARIANCES

5.1 General Requirements

Where literal enforcement of some provision contained in these Rules will result in undue hardship to the subdivider, and when a variance from such provision 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, the Commissioners Court shall, subject to the limitations under state law, have the authority to grant a variance from the provision. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship. A variance shall not be granted if it would have the effect of preventing the orderly development of other land in the area in accordance with the San Patricio County Subdivision Rules.

5.2 Limitations under State Law

- A. A variance may be granted to a requirement of these Rules only insofar as that requirement is not mandated by state law.
- B. Variance from Section C. The Commissioners Court may grant an exemption for a subdivision from the requirements of Section C only if the county supplies the subdivision with water supply and sewer services that meet the standards of Section C.

5.3 Special Types of Variances

- A. Type I -Pre-existing Conditions Variance. A request for a Type 1 variance must be based upon facts that existed prior to the effective date of these Rules. It must be shown that the property and the conditions for which a variance are being requested existed prior to July 3, 1990, that the subdivider has no other property adjacent to or within two hundred feet (200') of the subject tract, that there is no possible way that the subdivider could comply with strict

literal enforcement to these Rules, and that granting of such a variance would not injure the public health, safety, or welfare.

- B. Type 2 -Harmless Variance. A variance that would not be harmful to the public health, safety, or welfare.

5.4 Application for Variance

An application for a variance shall be made in writing to the County Judge. The application shall state specifically which chapter, section, or subsection a variance is being requested from and shall contain all information which the subdivider feels supports the requested variance.

An application for an exemption from the requirements of Section C must be accompanied by an estimate, prepared by an engineer, of the cost for the county to supply the subdivision with water supply and sewer services that meet the standards of Section C.

5.5 Procedure for Review of Application for Variance

The Commissioners Court makes the ultimate decision on an application for a variance. The applicant may withdraw a request for a variance at any point in the process. A variance is usually requested at the time of submission of the preliminary plat. A variance may also be requested at the time of submission of the final plat. The Commissioners Court shall hold a public hearing on the application for the variance. The applicant shall have at least five (5) days notice of the Commissioners Court's hearing on the application. The Commissioners shall be provided copies of all pertinent written information developed during the review of the variance. After providing an opportunity for all concerned to be heard, the Commissioners Court shall proceed to deny the variance, to grant it, or to grant it with conditions. The full extent of the reasons for such a variance, when granted, shall be duly recorded in the Minutes of the Commissioners Court. If the Commissioners Court grants an exemption for a subdivision from the requirements of Section C, the Court shall identify the source of funding to supply the subdivision with water and sewer services that meet the requirements of Section C.

5.6 Notation of Variance on Plat

Any variance granted shall be noted on the face of the plat, along with the date such variance was granted, prior to recording of the plat.

CHAPTER 6-ENFORCEMENT

6.1 General Enforcement Authority under Texas Local Govt. Code§232.005(a) & (b)

- A. At the request of the Commissioners Court, the county attorney, or other attorney employed by the Court for this purpose, may file an action in a court of competent jurisdiction to:

- 1 enjoin the violation or threatened violation of a requirement established by, or adopted by the Commissioners Court under Sections 232.001 through 232.0045, Texas Local Government Code; or
 - 2 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 Sections 232.001 through 232.0045, Texas Local Government Code.
- B. A person commits an offense if the person knowingly or intentionally violates a requirement established by, or adopted by the Commissioners Court under Sections 232.001 through 232.0045, Texas Local Government Code. An offense under this subsection is a Class B misdemeanor. This subsection does not apply to a violation for which a criminal penalty is prescribed by Section 232.0048, Texas Local Government Code.

6.2 Additional Enforcement

See state law and Chapter 4 of Section C for other provisions related to enforcement.

SECTION C. DIVISIONS OF LAND OUTSIDE TITLE CORPORATE LIMITS OF A MUNICIPALITY AND SUBJECT SUBCHAPTER C OF THE TEXAS LOCAL GOVERNMENT CODE

CHAPTER 1. GENERAL AND ADMINISTRATIVE PROVISIONS

1.1. Authority and Scope of Rules. These rules are adopted by San Patricio 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.

1.2. 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. .

1.3. Effective Date. See Section A.5.

1.4. Repealer. See Section A.5.

1.5. 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.

1.6. Supersession. These rules supersede any conflicting regulations of the county.

1.7. 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.

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

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

- (1) Commission -the Texas Commission on Environmental Quality and any of its predecessor or successor entities.
- (2) Commissioners court (or court)--The commissioners court of County, Texas.
- (3) County--County, Texas.
- (4) Drinking water--All water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.
- (5) Engineer--A person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.
- (6) Final plat--A map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the county records and prepared as described in these regulations.
- (7) Lot--An undivided tract or parcel of land.
- (8) Non-public water system--Any water system supplying water for domestic purposes which is not a public water system.
- (9) OSSF--On-site sewage facilities as that term is defined in rules and/or regulations adopted by the commission, including, but not limited to, 30 TAC Chapter 285.
- (10) Platted--Recorded with the county in an official plat record.
- (11) Public water system--A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.
- (12) Purchaser--Shall include purchasers under executory contracts for conveyance of real property.
- (13) Retail public utility—Any entity meeting the definition of a retail public utility as defined in Water Code §§ 13.002.
- (14) Sewerage facilities--The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.

(15) Subdivider--Any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.

(16) Subdivision--Any tract of land divided into two or more parts that results in the creation of two or more lots of five acres or less intended for residential purposes. A subdivision includes re-subdivision (replat) of land which was previously divided.

(17) TAC--Texas Administrative Code, as compiled by the Texas Secretary of State.

(18) Water facilities--Any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

CHAPTER 2. MINIMUM STANDARDS

2.1. 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 Chapter 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.

2.2. 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 6-A. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat.
- (2) Where there is no existing retail utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the Commission. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC §§ 290.38-290.51 and §§ 290.101-290.120. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provided a copy of a groundwater availability study that complies with the requirements one TAC §§ 230.1 through 230.11 for water availability for new public water supply systems and certifies. If surface water is the source of supply, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, which will provide a sufficient supply to serve the needs of the subdivision for term of not less than 30 years.

- b. **Non-public water systems.** Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements one TAC §§ 230.1 through 230.11 for individual water supply wells on individual lots and certifies 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 well systems as set forth in 30 TAC §§ 290.104,290.106,290.108
- (1) without any treatment to the water; or
 - (2) with treatment by an identified and commercially available water treatment system.
- (c) **Transportation of potable water.** The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.

2.3. 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 Commission in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317 from the Commission.
- (2) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement insubstantially the form attached in Appendix 6-B 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.

(b) On-site sewerage facilities.

- (1) On-site facilities which serves 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 and the County OSSF Order.
- (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 and the County OSSF order.
- (3) The Commission or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in particular §§285.4, 285.5 and 285.30 285.39 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.

2.4. 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 Commission.
- (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.

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

2.6. Setbacks. In areas that lack a nationally recognized fire code as listed in Local Government Code, § 235.002 (c) 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.

2.7 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.

2.8 Drainage. Drainage shall be designed in accordance with these Rules and current plans adopted by San Patricio County Drainage District. Where further guidance for construction specifications is needed, the latest edition of Standard Specifications for Construction of Highways, Streets and Bridges, as published by the Texas Department of Transportation, or other appropriate standards shall control.

CHAPTER 3. PLAT APPROVAL

3.1. 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 Chapter 2 and the requirements of Chapter 3 of this Section C.

3.2. 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 §3.4 of Section C, 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 6A and referenced in Section (c) (2.2) (a) (I) of these rules. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project which may include in addition to the county the commission and the county health department. If ground water is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30TAC §§§§230.1 through 230.11 for water availability for a public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision.

(B) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the commission and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If ground water is to be the source of the water supply, the [mal engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§§§230.1 through 230.11 for water availability for a public water supply systems and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than 30 years.

(2) Non-public water systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with Section(c) (2.2)of these rules. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to §§364.32(b) 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 final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§§§230.1 through 230.11 for water availability for individual water supply wells on individual lots and certifies the long term (30 years) quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. The description of the required sanitary control easement shall be included.

(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 6-B and referenced in §2.3(a)(2) of Section C. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the Commission and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.
- (B) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the Commission. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the Commission and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.

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

3.3. Additional Information. Additional information is necessary to determine the adequacy of proposed water and wastewater improvements as part of the plat approval process. Such information includes, but is not limited to:

- (1) layout of proposed street and drainage work;
- (2) 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; and
- (10) proposed area features.

3.4. 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 3B 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 subsection (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 commissioners 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 commissioners 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 Chapter 2 of this Section C 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.

(c) **Letter of credit** A letter of credit that is submitted in compliance with subsection 3.4(c) of this Section C 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 3A. 31 TAC §§364.54(c)(3)

(4) The letter of credit shall be conditioned upon installation of construction of water and wastewater facilities meeting the criteria established under Chapter 2 of this Section C 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.

3.5. 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 Chapter 2 and the requirements of Chapter 3 of this Section C.
- (b) Disapproval authority. The commissioners 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 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 Commission 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 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 Chapter 3 of this 'Section C.

3.6. Time Extensions for Providing Facilities.

- (a) Reasonableness. The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if:
 - (1) any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested or new financial guarantees that comply with §3.4 of the Section C 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 Chapter 2 of this Section C.

3.7. 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 layout 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 tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to layout a subdivision of the tract prior to September 1, 1989, including an addition, or to layout suburban lots or building lots, and to layout streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the commissioners court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the commissioners court as provided in this section in lieu of the filing of a plat of the subdivision.
- (d) Special criteria. The commissioners court may approve the plat of a residential lot which does not comply with the provisions of §§ 1.5(b) of this Section C (sale restrictions), 2.6 of this Section C (Setbacks), 2.7 of this title (Number of Dwellings per Lot), 3.2 of this title (Final Engineering Report), and 3.4 of this Section C (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 commissioners 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 commissioners 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 the public health and safety.
- (e) Final determination. The commissioners court shall make the final decision on an application for a waiver, following review and recommendation by the county planning commission or department, if any. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved by the commissioners court, the county shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

CHAPTER 4. ENFORCEMENT.

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

4.2. 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.

APPENDIX 1: CHECKLISTS FOR SECTION B.

These checklists are to be used in conjunction with the San Patricio County Subdivision Rules and state statutes to help keep track of whether a preliminary or final plat and its associated information and documents meet legal requirements. Beneath each item's description are citations to the key rule(s) and statute(s) related to the checklist item. Rules are referred to by title, chapter, and number. References to the Texas Local Government Code (typically chapter 232 thereof) are given simply by section number, for example, 232.022. The status of an item is "YES," "NO" (or blank), "INC." (for "Incomplete"), or "NA" (for "Not Applicable"). The log number of the document or documents submitted by the applicant containing the information fulfilling the checklist requirement should be put in the "Log # of Reference" blank. The initials of the county official making the particular status determination and the date of that determination appear in the last column.

Checklist for Section B: Preliminary Plat

Description of Item	Status	Log # of Checker's Reference	Initials & Date
Application by owner or duly authorized agent [B.3.3]	_____	_____	_____
Verification of title A applicability [B.1.1, C.1.1; 232.001, 232.022]	_____	_____	_____
GENERAL SUBDIVISION DESIGN			
Provision for development of adjacent land [B.2.1.B]	_____	_____	_____
Street classification [B.2.2]	_____	_____	_____
Street and alley layout [B.2.4.A]	_____	_____	_____
Minimum right-of-way widths [B.2.4.B]	_____	_____	_____
Curves	_____	_____	_____

[B.2.10]

SUBMISSION REQUIREMENTS

Application, authorization, deed [B.3.3.A] _____

Form: scale, size, margins, index [B.T.5.A] _____

Topographic coverage within 500 feet [B. 3.5.B] _____

Quantity: 10 sets of plat and supporting info [B.3.5.C] _____

REQUIRED SUPPORTING INFORMATION

May be on or with final plat. All work by an engineer or surveyor must be signed, sealed, and dated. [BJ.5.D] _____

Legal description sufficient for title examination [B.3.5.D.1] _____

Statement of conformance or list of variances [B.3.5.D.2] _____

Location map [B.3.5.DJ] _____

Vicinity map [B.3.5.D.4] _____

Location with respect to ETJ lines [B.3.5.D.5] _____

Map of earlier plat [B.3.5.D.6] _____

Proposed or existing restrictive covenants _____
[B.3.5.D.7]

Certification by owner of utility conformance _____
or submittal for review _____
[B.3.5.D.8]

INFO ON PRELIMINARY PLAT

Names, addresses, and phone numbers of owner, _____
engineer, surveyor, others responsible _____
[B.3.5.E.1]

Subdivision name: no duplication _____
[B.3.5.E.2, A.2.1.C]

Boundary delineated; total acreage _____
[B.3.5.E.3]

Location tie to original survey comer _____
[B.3.5.E.4]

Control points shown or described _____
[B.3.5.E.5]

Existing or recorded streets, alleys, etc. _____
[B.3.5.E.6.a]

Existing water courses, drainage structures, etc. _____
[B.3.5.E.6.b]

Existing or recorded lots, blocks, structures, etc. _____
[B.3.5.E.6.c]

Existing water, sewer, & other utilities _____
[B.3.5.E. 6.d]

Adjoining property ownership, or subdivision [B.3.5.E.7]	_____	_____	_____	_____
Preparation and survey dates; scale; north [B.3.5.E.8]	_____	_____	_____	_____
Topographic info; benchmark [B.3.5.E.9]	_____	_____	_____	_____
General drainage plan [B.3.5.E.10]	_____	_____	_____	_____
Approximate locations of all proposed streets, drainage structures, parks, public areas, easements, blocks, lots, monuments, etc. [B.3.5.E.11]	_____	_____	_____	_____
Proposed street names; extensions [B.3.5.E.12]	_____	_____	_____	_____
Building set-back lines [B.3.5.E.13]	_____	_____	_____	_____
Net area in each lot [B.3.5.E.14]	_____	_____	_____	_____
Flood hazard areas & finish floor elevation [B.3.5.E.15]	_____	_____	_____	_____

ITEMS TO BE SUBMITTED FOR SECTION B SUBDIVISION

Description of Item	Date Received	Logger's Initials
1. Application [B.3.6A]	_____	_____
2. Preliminary plat approved within 12 or 18 months [B.3.4.C]	_____	_____
3. Statement of conformance or list of variances [B.3.7.D.1]	_____	_____
4. Utility provider letters or notation on plat [B.3.7.D.2]	_____	_____
5. Street and drainage plans: 3 sets [B.3.7.D.3]	_____	_____
6. Water and sewage plans: 3 sets with costs [B.3.7.D.4]	_____	_____
7. Tax certificates [B.3.7.D.5]	_____	_____
8. Final Plat	_____	_____

ITEMS TO BE SUBMITTED FOR SECTION C SUBDIVISION

Description of Item

1. Water facilities development standards
2. Wastewater disposal standards
3. Greywater systems
4. Sludge disposal

5. Setbacks
6. Dwelling units per lot
7. Application
8. Final engineering report
9. Additional Information
10. Financial guarantees for improvements
11. Dedicated sites for water and
wastewater treatment facilities
12. Proper water & wastewater facilities installed
13. Water & wastewater permits obtained,
and financial guarantee provided

Printed Name:

Title:

APPENDIX 3-B: SUBDIVISION CONSTRUCTION AGREEMENT SAMPLE FORM

1. **Parties.** This Subdivision Construction Agreement (the Agreement) is by and between the County and the Subdivider. The County is San Patricio 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 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 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 three (3) 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 one (1) year 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 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 one year 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 if 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 disburse 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 presentation of a draft on the Letter of Credit, unless, in the reasonable opinion of the County, the failure creates an immediate and substantial harm to the public health or safety, in which case the notice shall state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before 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 or 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 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 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 their 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 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:

Attn: County Judge

400 West Sinton

Sinton, Texas 78387

if to the Issuer: _____ at 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 San Patricio County, Texas, or the United States District Court for the Southern District of Texas. The Subdivider expressly waives any right to bring such an action in or to remove such an 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 an 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 excepting 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 action 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__ .

County Official

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
-------------------------------	------------------------------

- a)
- b)
- c)

APPENDIX 4: ROAD, DRAINAGE AND GENERAL UTILITY CONSTRUCTION SPECIFICATIONS

1. GENERAL

- 1.1 Except as provided herein, no Plat or improvements thereon shall be approved or accepted by the county unless it conforms to the minimum standards and specifications contained herein, and in the Model Rules and Tex. Loc. Govt. Code Ch. 232, if applicable.
- 1.2 If a tract is Subdivided into parcels larger than ordinary building Lots, such parcels shall be arranged to allow the opening of future Streets.
- 1.3 There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

- 1.4 Irrigation canals: No open irrigation canals, except main canals, shall be permitted within a Subdivision. The Subdivider shall place said canal underground if its continued use is required by the Irrigation or Water District.
 - 1.5 Electric and gas utilities: The Subdivider shall make reasonable efforts to have electric and gas utilities installed in the Subdivision by an entity authorized under Texas law to provide such services prior to the approval of the Final Plat.
- 2. STREETS** All streets whether public or private shall be paved to the required width and to the minimum sections established herein. The Commissioners Court has the final discretion in determining the nature of a street's surface.
- 2.1 Private Streets. Private streets serving four (4) or fewer lots shall be surfaced to a minimum pavement width of eighteen feet (18'). Private streets serving more than four (4) lots shall be paved to the minimum standards for public streets as established herein. Notwithstanding the minimum pavement widths above, a minimum private easement or right of way of fifty (501) feet must be provided on the plat.
 - 2.2 Cul-de-sacs: Cul-de-sacs in single family residential subdivisions shall have a turn-around pavement radius of not less than forty (40) feet. In Subdivisions other than single family residential subdivisions, the turn-around pavement radius shall be no less than ninety (90) feet. .
 - 2.3 Pavement Widths and rights-of-way: See B.2.4.B, for right-of-way standards. Pavement Widths shall be as follows:
 - 2.3.1 Arterial Streets shall have a Pavement Width of not more than fifty-six (56) feet, but not less than forty-eight (48) feet.
 - 2.3.2 Collector Streets shall have a Pavement Width of not more than forty-eight (48) feet, but not less than thirty-six (36) feet.
 - 2.3.3 Minor Streets shall have a Pavement Width of not more than thirty-five (35) feet, but not less than thirty (30) feet.
 - 2.5 Specifications to be followed in the construction of any such Streets within or bounding a Subdivision must consider the amount and kind of travel over the road. Streets within a Subdivision must have a base of six (6) inches of compacted caliche which is at least four (4) feet wider than the Pavement Width, and shall be paved to the Pavement Width with one and one quarter (1 1/4) inch of hot mix asphalt concrete Type "D". Street and traffic control signs shall conform to County standards and shall be installed at the expense of the Subdivider.

- 2.6 Testing Requirements. Testing by a reputable soil testing laboratory is required at different stages of Street construction as follows:
- 2.6.1 Subgrade Preparation: A minimum of one test per each 1,000 square yards or fraction thereof of Street area for subgrade compaction and depth.
 - 2.6.2 Compacted Caliche: A minimum of one test per 1,000 square yards or fraction of Street area for caliche compaction and depth.
 - 2.6.3 Hot Mix Asphalt Concrete (HMAC): A minimum of one test per each 1,500 square yards of Street area for thickness to meet with State Specification Type "D" Certification. Submittal of Certified Type "D" from Supplier.

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

- 2.7 Curb and gutter or driveway culverts are required in the following instances:
- 2.7.1 This subsection 2.7.1 applies to any Subdivision in which any Lot contains an area of one acre or less, net of all easements and rights of way. The Subdivider shall, prior to obtaining final approval of a Plat, install rollover curb and gutter eighteen inches (18") in width in connection with all Streets installed or improved in the Subdivision, pursuant to the specifications promulgated from time to time by the County.
 - 2.7.2 This subsection 2.7.2 applies to any Subdivisions in which all lots have an area of greater than one acre, net of all easements and rights of way. The Subdivider shall comply with the requirements of this subsection in one of the following manners:
 - 2.7.2.1 The Subdivider shall, prior to obtaining final approval of a Plat, install rollover curb and gutter eighteen inches (18") in width in connection with all Streets installed or improved in the Subdivision, pursuant to the specifications promulgated from time to time by the County. The fact that Streets are constructed with curb and gutter shall have no impact on the minimum Pavement Width set out in Section 2.4; or
 - 2.7.2.2 The Purchaser of each Lot shall install or cause to be installed driveway culvert pipes which, at a minimum, are of reinforced concrete construction, of no less than fifteen inches (15") in diameter and twenty four feet (24') in length, and shall otherwise

conform in construction and content to the specifications promulgated from time to time by the County. The Subdivider shall not be personally liable for the installation of driveway culverts under this section 2.7.2, and shall include in the drainage plan for the subdivision and in a note on the plat that the purchaser of the lot will be required to provide for and install the culvert.

- 2.8 Obstruction Prohibited. No wall, fence, shrubbery or other obstruction shall be permitted higher than eighteen (18) inches within the Restricted Area of a Comer Lot adjacent to an intersection with Minor Streets or Collector Streets, and there shall be no obstruction of any nature permitted within the Restricted Area of a Comer Lot adjacent to an intersection with a State Farm to Market Road, a State Highway or a US Highway.
- 2.9 Frontage on existing County roads. Where the proposed Subdivision abuts an existing county road that does not conform to Section 2.4, the Subdivider shall dedicate right-of-way width sufficient to make the full right-of-way width to conform to such Section 2.4 and the anticipated future use of the road. In addition, where the abutting county road is either not paved in accordance with Sections 2.4 through 2.7 or has a Pavement Width insufficient to conform to the requirements of Section 2.4, the Subdivider shall, at the time of Final Plat Approval, escrow with County a sum of money sufficient to provide for one-third of the cost of paving of the abutting portion of the road in compliance with the then-current County road construction specifications and/or requirements for the type of road in question. In determining the money amount sufficient to provide for such future work, the Engineer employed by Subdivider shall present to the County reasonable cost estimates for all materials and labor necessary to pave the normal Pavement Width required for such a road under then-current County road construction specifications or requirements. The County, and the County Engineer, shall review the calculations and notify the Subdivider of any changes or adjustments prior to final plat approval.

3. DRAINAGE

- 3.1 A detailed drainage plan, prepared and executed by an Engineer, shall be submitted in addition to and along with any Final Plat. This shall contain, but not be limited to, the following:
 - 3.1.1 A topographical map showing existing contours within the proposed Subdivision and five hundred (500) feet outside of it. It shall depict the existing elevations at one foot contours and one hundred (100) foot intervals, and spot elevations at one-tenth (1/10) of a foot, and all existing drainage facilities within each area covered by the Plat.
 - 3.1.2 A drainage plan for the proposed Subdivision which must be illustrated on the same map depicting:

- a. Proposed finished elevations of the center line, edge of pavement, and edge of right-of-way of each Street.
 - b. Proposed drainage facilities to be constructed by the Subdivider, and a drawing of how those facilities tie into the County Master Drainage Plan.
 - c. The one hundred (100) year storm contour elevation as illustrated on FEMA maps
 - d. All areas which, due to preexisting conditions or to the construction of streets and drainage facilities or to the re-grading of the land, will be subject to inundation, as a result of a 10-year storm, by more than three inches (3") of water. Such areas would include, for example, the gutters and nearby portions of streets, constructed drainage swales, ditches parallel to streets, etc.
- 3.1.3 A document containing the calculations of the quantity of runoff for the proposed Subdivision consistent with the overall County Master Drainage Plan, and in accord with the calculation method for determining runoff as approved by the County.
- 3.1.4 Provisions for drainage in the Subdivision to:
- a. avoid concentration of storm drainage water from each Lot to adjacent Lots;
 - b. provide positive drainage away from all buildings; and
 - c. coordinate individual lot drainage with the general storm drainage pattern for the area, including a description of the drainage improvements or modifications necessary to meet these criteria.
- 3.1.5 Detailed plans and specifications for all on-site or off-site improvements necessary to connect the drainage facilities shown on the drainage plan to the nearest existing drainage facility or public outfall, which improvements must be completed prior to final plat approval under the Rules. Off-site improvements must consist of drainage facilities approved in advance by County and designed in accordance with proper engineering practices and considerations.

- 3.2 Specifications to be followed in the design of storm drainage in accordance with standard engineering practices and shall be approved by the County Engineer and, if the subdivision is located within its boundaries or utilizes its facilities, San Patricio County Drainage District.
- 3.3 Every Subdivision shall comply with the current provisions of the County Flood Plain Regulations, if any.
- 3.4 In the event all or any portion of the Subdivision is situated in a Floodplain, the Subdivider shall supply and submit to the Federal Emergency Management Agency all documents, information, reports and recommendations that are required under the rules of the Federal Flood Insurance Program, and shall be responsible for obtaining a Letter of Map Amendment or Letter of Map Revision from the Federal Emergency Management Agency, as it applies to the entire Subdivision, prior to the approval of any Plat by County.
- 3.5 Compliance with NPDES Program and Clean Water Act Permitting Requirements
 - 3.5.1. New development and redevelopment that will result in disturbance of five or more acres of land must comply with the United States Environmental Protection Agency ("USEPA") National Pollution Discharge Elimination System ("NPDES") General Permits for Storm Water Discharges from Construction Activities in Region 6. Rules covering the requirements of the General Permit are published at 63 Federal Register 36489, July 6, 1998, and are available at the USEPA Region 6 web site (www.epa.gov/earthlr6/gen/w/formsw.htm.)

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

The content of the NOI shall comply with the requirements of the NPDES General Permit for Storm Water Discharges from Construction Sites in Region 6, as published at 63 Federal Register 36489.
 - 3.5.2 In addition to compliance with the NPDES program, it may be necessary to obtain a permit from the U.S. Army corps of Engineer's under Section 404 of the Clean Water Act. (33 U.S.C. §1344). Certain activities are covered by the Nationwide Permit Program ("NWP"). NWP's which may be applicable in the development of subdivisions include NWP 39, 41 and 43, among others. Applicability of NWP 39 and 43 is limited in areas

within the 100-year Floodplain by General Condition 26. *See*, 65 Fed. Reg. 12818, March 9, 2000. (New NWP provisions were effective June 7, 2000.) Copies of all materials submitted to the District Engineer under an NWP or an application for an individual permit must be simultaneously provided to San Patricio County Drainage District.

- 3.6 Surface drainage from private property within a proposed subdivision shall be taken to the roads, streets, or drainage courses as directly as possible. Drainage water from the roads and streets shall be taken to defined drainage courses as directly as possible.
- 3.7 Streets shall not be used as major drainage courses. The subdivider shall be responsible for constructing all necessary drainage features required to transport water from the development to an acceptable outfall, including acquisition of all necessary rights-of-ways and easements.
- 3.8 The rational method shall be used at a minimum for calculations, and other methods may be utilized for the calculation of the storm water design discharge if sufficient supporting data is submitted to and approved by San Patricio County Drainage District NO.1. Without supporting data other methods shall not be accepted. The engineer responsible for the preparation for the design calculations shall sign, seal, and date **all** work done under his authority.
- 3.9 Minor streets shall:
 - 3.9.1 be designed to contain a nine and one-half (9 ½) year rainfall event within the gutter flow if curb and guttered or within the borrow ditches if not curb and guttered.
 - 3.9.2 have culverts designed to carry the nine and one-half (9½) year rainfall event with a headwater depth not to exceed the diameter of the pipe
- 3.10 Collector streets shall:
 - 3.9.1 be designed so that a nine and one-half (9 ½) year rainfall event is contained within the curb and gutter without topping the curbs.
 - 3.9.2 be designed so that a nine and one-half (9 ½) year rainfall event will be contained within borrow ditches if curb and gutter is not used and have culverts designed so that the nine and one-half (9½) year rainfall event will be carried with a head water depth not exceeding the diameter of the pipe.

3.11 Main Arterial streets shall:

3.11.1 be designed so that the streets with curb and gutter shall be designed to carry the ten (10) year rainfall event without topping the curbs if utilized.

3.11.2 be designed so that the borrow ditches, if utilized, will contain a twenty five (25) year rainfall event within the ditches and all culverts shall be designed to carry the twenty-five (25) year rainfall event with head water depth not exceeding 1.2 times the diameter of the pipe.

3.12 Open drainage ditches or channels other than those contained within the right-of way of a street or road shall comply with the San Patricio County Master Drainage Plan, as amended.

3.13 Drainage structures at crossing of drainage courses with roads and streets shall be designed as follows:

3.13.1 Drainage structures under Minor streets shall be designed to carry a twenty-five (25) year rainfall event without overtopping the roadway by more than one foot (1') and provide a minimum of fifteen feet (15') of clear roadway surface.

3.13.2 Drainage structures under Collector streets shall be designed to carry a twenty-five (25) year rainfall event without overtopping the roadway and provide a minimum of twenty feet (20') of clear roadway surface.

3.13.3 Drainage structures under Main Arterial streets shall be designed to carry a twenty-five (25) year rainfall event without overtopping any of the driving surface and shall provide a clear roadway equal to the width of the pavement plus five feet (5') on either side.

3.14 Easements. Where conditions require, there shall be provided a drainage easement adequate for the purpose (including future needs and maintenance), as determined by the County Planning Department and, if the subdivision is within its boundaries, San Patricio County Drainage District. Where such easement is adjacent to lots, tracts, or reserves, restrictions regarding the use of the surface area of the easement shall be noted on the face of the final plat as follows:

"This easement shall be kept clear of fences, buildings, plantings, and other obstructions to the operation and maintenance of the drainage facility. Abutting

property shall not be permitted to drain into the easement except by approved means."

APPENDIX 6-A. 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 which supplies of drinking water
known as

The Subdivider is _____,

who is the owner, or the authorized agent of the owner, of a tract of land in San Patricio 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 San Patricio 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 right and title 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 San Patricio County or by a municipality whose approval is required.

By affixing his or her 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: _____

APPENDIX 6-B. 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 San Patricio 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 San Patricio 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 right and title 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 San Patricio County or by a municipality whose approval is required.

By affixing his or her 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: _____