



# **Subdivision Regulations**

## **Smith County, Texas**



Revised: February 23, 2009



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**ORDER OF THE COMMISSIONERS COURT OF SMITH COUNTY, TEXAS  
PURSUANT TO TEX. LOC. GOV'T CODE CHAPTER 232  
FOR COUNTY REGULATION OF SUBDIVISIONS**

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On this the 23rd day of February, 2009, pursuant to chapter 232 of the Texas Local Government Code, the Commissioners Court of Smith County, Texas, has adopted the following regulations governing the subdivision of land in Smith County. These regulations shall be known as the “Smith County Subdivision Regulations” and shall replace any previous versions of the same regulations.

**/S/ Joel Baker**  
**Honorable Judge Joel Baker**  
**Chairman of Commissioners Court**

**/S/ Jeff Warr**  
**Jeff Warr, Commissioner**  
**Precinct One**

**/S/ Bill McGinnis**  
**Bill McGinnis, Commissioner**  
**Precinct Two**

**/S/ Terry Phillips**  
**Terry Phillips, Commissioner**  
**Precinct Three**

**/S/ Jo Ann Hampton**  
**JoAnn Hampton, Commissioner**  
**Precinct Four**

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## 1. Introduction

1.1. **Platting authority under Local Government Code Chapter 232:** Any subdivision of any tract of land within Smith County, whether recorded by metes and bounds or otherwise, must be platted, approved by the Smith County Commissioners Court, and subsequently recorded with the Smith County Clerk's Office as stipulated in the Local Government Code Chapter 232 with the following exceptions:

1.1.1. Wildlife refuges

1.1.2. Agricultural Land (where all parts of the tract are devoted to agriculture)

1.1.3. Tracts divided into not more than 4 tracts to be transferred to family members (within the third level of consanguinity)

1.1.4. Tracts to be transferred, sold, or conveyed to Texas Veterans as part of a Texas Veterans Land Board Development

1.1.5. Certain plats subject to a municipal extra-territorial jurisdiction "interlocal" agreement *and the time periods relevant to such agreement* with the county

1.2. **Platting authority:** The Smith County Commissioners Court shall have the authority to refuse to approve and authorize any plat of any such subdivision, unless such plat meets the requirements as set out in these regulations; and there is submitted at the time of approval of such plat such instruments of financial security as may be required by these rules.

1.2.1. ***At the request of the Commissioners Court of Smith County, the district attorney or other prosecuting attorney representing the county may file an action in a court of competent jurisdiction to:***

1.2.1.1. Enjoin the violation or threatened violation of a requirement established by or adopted by the commissioners court under chapter 232 of the Local Government Code.

1.2.1.2. 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 the commissioners court under chapter 232 of the Local Government Code.

- 1.2.2. A person commits an offense if the person knowingly or intentionally violates a requirement established by or adopted by the commissioners court under chapter 232 of the Local Government Code. An offense under this subsection is a class b misdemeanor.
- 1.2.3. As stated in Local Government Code 232.005(c): “A requirement that was established by or adopted under chapter 436, acts of the 55<sup>th</sup> legislature, regular session, 1957, as amended (article 6626a, Vernon’s Texas civil statutes), or chapter 151, acts of the 52<sup>nd</sup> legislature, regular session, 1951 (article 2372k, Vernon’s Texas civil statutes), before September 1, 1983, and that after that date, continues to apply for subdivision of land is enforceable” under subsection 1.2.2 of this section. A knowing or intentional violation of the requirement is an offense under subsection 1.2.2 of this section.

**2. Areas of Jurisdiction**

- 2.1. **General:** This subdivision regulation shall apply to subdivisions of land and developments as disclosed herein in ***unincorporated*** areas of the county and city ETJ (“Extra Territorial Jurisdictions”) areas as follows:

**Table 1: Subdivision Regulation Authority<sup>1</sup>**

City	Subdivision Regulation Authority
Arp	Smith County
Bullard	City controlled
Hide-a-Way	Smith County
Lindale	City controlled
New Chapel Hill	Smith County
Noonday	Smith County
Overton	Smith County
Troup	City controlled
Tyler Zone 2	City controlled
Tyler Zone 3	Smith County
Whitehouse	City controlled
Winona	Smith County

<sup>1</sup> Subject to change based on the status of any applicable interlocal agreement between the county and the municipality in question.

The table above lists the current status of jurisdiction in each respective ETJ ***based on interlocal agreements between Smith County and the listed municipalities***. These agreements were initiated in accordance with the requirements found in § 242.001 of the Texas Local Government Code and are subject to change as may be negotiated between the parties. Any such changes are subject to approval by the Commissioners Court in an open public meeting with a posted agenda. The purpose of such interlocal agreements is to streamline the requirements for subdivision development; however, such agreements do not abdicate certain non-municipal rules such as water-drainage requirements of the Texas Commission on Environmental Quality, Texas Constitutional limitations on county acceptance of property dedications into the maintenance inventory of the county, and county authority over manufactured-home rental communities.

**The ETJ areas are shown on fig. 1 ETJ map on the next page.**

2.2. **Subdivisions** – See *e.g.*, standards set forth in Section 5.

2.3. **Manufactured Home Rental Communities** – Appendix 8.

2.4. **Site Built Single and Multi Family Rental Communities** – See *e.g.*, standards set forth in Section 5.

2.5. **Note Regarding Texas Residential Construction Commission – The State of Texas through the Texas Residential Construction Commission requires that all homes built or remodeled in unincorporated areas or in cities that do not offer municipal inspections must be inspected at least three (3) times before the homebuyer moves in or as soon as the remodeling project is complete. Mandatory reviews (pursuant to State regulations) require a foundation inspection, a framing and mechanical systems assessment and final sign-off after the entire job is done. For more information on these requirements, contact the Texas Residential Construction Commission.**



### 3. Definitions

- 3.1. **Base flood plain** - that area subject to inundation by flood, having a one percent (1%) probability of occurrence in any given year, based on existing conditions of development within the watershed area, as determined by the flood insurance study for Smith County provided by FEMA.
- 3.2. **Building line or setback line** - a line established, in general, parallel to the front street line. No building or structure may be permitted in the area between the building line and the street right of way.
- 3.3. **Commissioners Court** - the Smith County, Texas Commissioners Court.
- 3.4. **County Engineer** - the County Engineer of Smith County or his/her designated agent or the Smith County Road & Bridge Administrator as authorized to serve as department head by the commissioners court.
- 3.5. **Cul-de-sac** - a street having one outlet to another street with a vehicular turnaround at the dead end.
- 3.6. **Developer** - persons, corporations, organizations, government or governmental subdivision or agency, estates, trust, partnerships, associates, incorporations or other entities, which undertake the activities covered by these regulations.
- 3.7. **Easement** - a right given by the owner of a parcel of land to another person, public agency or private corporation for specific and limited use of that parcel.
- 3.8. **Engineer** - any person registered and currently licensed to practice engineering by the Texas state board of registration for professional engineers.
- 3.9. **Extraterritorial Jurisdiction (“ETJ”)** - the unincorporated area, not a part of any city, which is contiguous to the corporate limits of any city. The extraterritorial jurisdiction of the various population classes of cities (as defined in chapter 42 of the Texas Local Government Code) shall be as follows:

**Table 2: ETJ limit**

<b>City population</b>	<b>ETJ limit</b>
0 – 5,000	0.5 miles, not to include a part of any other city
5,000 – 25,000	1.0 miles, not to include a part of any other city
25,000 – 50,000	2.0 miles, not to include a part of any other city
50,000 – 100,000	3.5 miles, not to include a part of any other city
100,000 +	5.0 miles, not to include a part of any other city

- 3.10. **FEMA** - Federal Emergency Management Agency
- 3.11. **Floodplain** - any land area susceptible to being inundated by water from any source.
- 3.12. **Floodway** – the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a height of one foot.
- 3.13. **Gated subdivision** - a limited access subdivision. *See also*, definition for “Subdivision.”
- 3.14. **GIS** - Geographic Information System
- 3.15. **GPS** - Global Positioning System
- 3.16. **Lot** - an undivided tract or parcel of land having frontage on a road, which parcel of land is designated as a separate and distinct tract.
- 3.17. **May** - is permissive
- 3.18. **Plat** - a map depicting the division or subdivision of lands into lots, blocks, parcels, tracts, or other portions. A replat or re-subdivision will be considered a plat.
- 3.19. **Preliminary plat** - one or more drawings showing the physical conditions of a tract of and the surrounding area intended to be subdivided. This plat shall

show the developer's intended development program in order to assure that all regulations are complied with.

- 3.20. **Final plat** - a map or drawing and any accompanying material of a proposed land subdivision prepared in a form suitable for filing in the county records and prepared as described in these regulations.
- 3.21. **Manufactured Home** means a structure falling within the definition of manufactured housing in article 5221f, Texas civil statutes annotated or any amendment to that statute.
- 3.22. **Manufactured Home Community** means a plot or tract of land where two or more manufactured homes that are rented, leased, or offered for rental or lease, for use and occupancy as residences.
- 3.23. **Manufactured Home Rental Community** means a manufactured home community in which two or more manufactured homes are rented, leased, or offered for rent or lease for a term of less than 60 months without a purchase option.
- 3.24. **Shall** - is mandatory and not discretionary.
- 3.25. **State plane coordinate system** - a coordinate system used by the State of Texas to locate special information with a high degree of accuracy. This coordinate system is widely used in Smith County for GIS purposes.
- 3.26. **Subdivision** - defined by section 232.001, Local Government Code, as: the division of a tract of and into two or more parts to lay out 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.
- 3.27. **Surveyor** - any person licensed to practice surveying by the Texas Board of Professional Land Surveying.
- 3.28. **TCEQ** - Texas Commission on Environmental Quality
- 3.29. **TxDOT** - Texas Department of Transportation

#### 4. Platting Procedure

- 4.1. **Submission Items:** All items listed in this section are required to be submitted to the Office of the County Engineer or Road & Bridge Administrator for review

at least ten (10) calendar days prior to the scheduled meeting of the Commissioners Court where such final plat may be considered for approval or denial.

4.1.1. Preliminary plat: The submission of a preliminary plat<sup>2</sup> is necessary to eliminate the duplication of subdivision names and street names, assure proper alignments of street and drainage facilities, assure that the provisions of the floodplain regulations will be complied with, and assure that County Sewage rules will be complied with. Two (2) blue line copies of the preliminary plats shall be submitted to the Office of the County Engineer or Road & Bridge Administrator for approval prior to submission of the final plat. Preliminary plats shall be drawn on an 18" x 24" sheet at a scale of 1"= 200'; unless given prior approval by the County Engineer or Road & Bridge Administrator, and shall show all phases of development with phases or units indicated on the plat and shall show, or be accompanied by the following information:

- 4.1.1.1. The name, address and telephone number of the developer, surveyor and/or engineer.
- 4.1.1.2. The proposed name of the subdivision, and the names, locations, width and dimensions of all proposed and existing streets within the property, date the plat was prepared, north arrow, and graphical scale.
- 4.1.1.3. The location of the existing boundary lines in sufficient detail to accurately locate the property.
- 4.1.1.4. The description, location, width and dimensions of proposed and existing utility and pipeline easements within and adjacent to the property.
- 4.1.1.5. The name, location and dimensions of all adjacent subdivisions and streets.
- 4.1.1.6. The name of all adjacent property owners with the volume and page of record.
- 4.1.1.7. The location and distance to the nearest subdivisions, and how the streets in the proposed subdivision will connect with those in the nearest subdivisions or other roads in the area.

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<sup>2</sup> Note: Section 4.1.2 also requires an electronic format submission for "Final Plats."

- 4.1.1.8. TxDOT access concurrence when proposed access will include ingress and/or egress to a state maintained right of way. Locations of access shall be in accordance with current TxDOT driveway and access management policies. If access to the state maintained highway is proposed for each individual subdivision lot then access concurrence must be obtained for each ingress/egress location. TxDOT highly encourages minimizing the access locations to state maintained highways and recommends internal subdivision circulation to proposed individual lots. When evaluating a subdivision plat for access, TxDOT will consider the entire property as a whole and not as proposed individual lots.
- 4.1.1.9. Existing contour intervals shall not be greater than two (2) feet, if available, otherwise use 4 ft. Contours.
- 4.1.1.10. The exact location, dimensions, description and flow line elevation of all existing and proposed drainage structures to the extent reasonably available.
- 4.1.1.11. Any surface water retention pond, lake, or other water impoundment of over 10 surface acres in area, all or partially within the boundaries of the plat, must include a maximum reservoir volume calculated in acre feet (1 acre foot equaling 43,560 cubic feet) based on its 100 year base flood elevation, as determined by a registered Professional Engineer licensed in the State of Texas.
- 4.1.1.12. Any surface water retention pond, lake, or other water impoundment of over ten (10) surface acres in area, all or partially within the boundaries of the plat, not otherwise required to have a valid permit on file with the Texas Commission on Environmental Quality (TCEQ), must be accompanied by engineering calculations and preliminary plans for any dam, spillways, overflow piping, floodgates, or other water retention structures or systems intended having been prepared by a Registered Professional Engineer licensed in the State of Texas.
- 4.1.1.13. The 100-year floodplain as identified on the most current Smith County flood insurance rate map (firm) published by FEMA. The most current Smith County flood insurance rate map is automatically incorporated herein when FEMA revises the map.

- 4.1.1.14. Where the floodway has been established, a floodway easement shall be dedicated to the county.
- 4.1.1.15. A location or vicinity map showing the location of the proposed subdivision within the county and to the nearest incorporated areas with a north arrow and scale of the vicinity map to the extent reasonably available.
- 4.1.1.16. Execution of a takings impact assessment (TIA) waiver. **Appendix 4.**
- 4.1.1.17. The 100 year floodway or floodplain, if applicable, for subdivided area, shall be dedicated by easement to the county to be maintained in its natural condition. Floodway areas will not be developed, unless the appropriate map revisions and map amendments are approved through FEMA.
- 4.1.1.18. If the proposed subdivision is a portion of a tract, which is later to be subdivided in its entirety, a tentative master plan of the entire subdivision shall be submitted with the preliminary plat of the portion first to be subdivided.
- 4.1.1.19. The County Engineer or Road & Bridge Administrator will review the preliminary plat and send written comments to the developer stating the conditions of approval, if any. Approval of the preliminary plat does not constitute acceptance of the subdivision, but is merely an authorization to proceed with the preparation of the final plat for record. The approval will expire after one year unless one or more phases have completed a final plat.
- 4.1.1.20. All information listed in item 4.1.1 and its subsections is considered to be the minimum amount of Information needed to assure compliance with this regulation. Any deviations shall have the written approval of the County Engineer or Road & Bridge Administrator prior to submittal of the preliminary plat.
- 4.1.2. Final plats: The submission of final plats is necessary to assure proper identification and location of all streets, lots and easements, that the streets will be properly constructed and maintained, that all proper dedications have been made for streets, easements and public spaces, and that any known permitting requirements have been obtained or applied for. A final plat is required unless the subdivision meets the requirements for exceptions as detailed in Local Government Code

232.0015. The developer shall submit to the County Engineer or Road & Bridge Administrator the original in electronic format and on mylar with three (3) reproductions of the final plat along with all other required submission items, at least ten (10) calendar days prior to the scheduled Commissioners Court meeting where that plat may be considered for approval. Final plats shall be drawn on an 18" x 24" mylar film sheet at a scale of no less than 1" = 200' unless prior approval of the County Engineer or Road & Bridge Administrator has been obtained. In addition to the requirements for preliminary plats, final plats shall show or be accompanied by the following information:

- 4.1.2.1. Sufficient data to reproduce, on the ground, the bearings and lengths of all streets, blocks, lots and easements.
- 4.1.2.2. Curves on streets, blocks and easements shall include the radius, length and central angle of the curve. Curves on lots shall show the radius and length of the curve.
- 4.1.2.3. The accurate location of adjacent subdivision streets, blocks, lots and easements, or the property owner if the adjacent land is undeveloped.
- 4.1.2.4. The number of all lots and blocks arranged in a systematic order, and clearly shown on the plat in distinct and legible figures. The area of each lot shall be shown in acres.
- 4.1.2.5. The 100-year floodplain as identified on the most current Smith County flood Insurance rate map (firm) published by FEMA. Where the floodway has been established, a floodway easement shall be dedicated to the county. The most current Smith County flood insurance rate map is automatically incorporated herein when FEMA revises the map.
- 4.1.2.6. The following statements shall be noted on the face of the final plat:
  - **“All surface drainage easements shall be kept clear of fences, buildings, foundations, plantings, and other obstructions to the operation and maintenance of the drainage facility.”**
  - **“Blocking the flow of water or constructing improvements in surface drainage easements, and Filling or obstruction of the floodway is prohibited.”**
  - **“Smith County will not be responsible for any damage, personal injury or loss of life or property occasioned by flooding or flooding conditions.”**

- “The existing creeks or drainage channels, if left unimproved, traversing along or across the addition will remain as open channels and will be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage courses along or across the lots.”
- “Construction not complete within two years of the Commissioners Court approval shall be subject to current county subdivision standards and regulations. The county may require the subdivision be re-platted.”

4.1.2.7. The following statement shall appear on any plat containing private streets, drives, emergency access easements, recreation areas and open spaces: **“Smith County shall not be responsible for maintenance of private streets, drives, emergency access easements, recreation areas and open spaces; and the owners shall be responsible for the maintenance of private streets, drives, emergency access easements, recreation areas and open spaces, and the owners agree to indemnify and hold harmless Smith County, from all claims, damages and losses arising out of or resulting from performance of the obligations of the owners set forth in this paragraph.”**

4.1.3. Construction Plans: All construction plans, drawings, and calculations shall bear the dated signature and seal of the Registered Professional Engineer licensed to practice in the State of Texas who is in direct charge of its preparation on each sheet. Three (3) sets of all construction plans (24" x 36" sheets) and specifications shall be submitted to and approved by the County Engineer or Road & Bridge Administrator. All construction plans shall be submitted with the final plat. The construction plans shall include, but not be limited to:

- **A Title sheet showing names of subdivision, developer, Engineer, County Judge, County Commissioners, County Engineer or Road & Bridge Administrator, date and location map. Include a space for the signature of approval from the County Engineer or Road & Bridge Administrator.**
- **Copy of the final plat.**
- **Drainage plans, including drainage map with calculations, channels, ditches, culverts, pipes, inlets, Storm Water Pollution Prevention Plan.**
- **Plans for the water distribution system, if any.**
- **Plans for sewage treatment and sewer system, if applicable.**
- **Plans for adjustment of utility lines and pipelines.**

- **Plan and profile sheets for all paving or drainage improvements.**
- **Detail sheets**

In particular, the following items shall be included:

4.1.3.1. **General Notes**: shall include, but not be limited to:

- Specific language giving sufficient detail to reasonably identify standard specifications, standard construction details, standard pavement sections, and construction notes.

4.1.3.2. **Site Plans**: are for commercial and planned developments (not residential) and shall include, but not be limited to:

4.1.3.2.1. The plan of the site indicating any and all final grades, survey monumentation, right of ways, easements, set backs, existing structures to be demolished, modified, or maintained, edge of pavement or curb, driveway entrances in the right of way, and sidewalks in the right of way.

4.1.3.2.2. A copy of the final plat

4.1.3.3. **Road Plan**: plans shall include, but not be limited to:

4.1.3.3.1. The plan and profile of the street, in no larger than a 1" = 50' horizontal scale and a 1" = 5' vertical scale, showing the location of the proposed pavement, ditches and drainage structures within the street right-of-way.

4.1.3.3.2. Street grades and elevations.

4.1.3.3.3. Vertical and horizontal curve information.

4.1.3.3.4. Typical street cross sections.

4.1.3.4. **Drainage**: plans shall include, but not be limited to:

4.1.3.4.1. The plan and profile of any and all drainage channels, ditches, culverts (other than driveway culverts), pipe, storm sewer, or structures in no larger than a 1" = 50' horizontal scale and a 1" = 5' vertical scale.

- 4.1.3.4.2. Channel, ditch, culvert (other than driveway culvert), pipe or storm sewer grades, design flow of water, design depth of water (tail water for pipe and culvert), and design velocity of water (tail water for pipe and culvert).
- 4.1.3.4.3. The length and diameter of all driveway culverts to carry the design flow of water at each lot in the subdivision when the culvert is installed at the designed ditch grade.
- 4.1.3.4.4. Typical channel, ditch, storm sewer (other than pipe) or drainage structure sections.
- 4.1.3.4.5. Drainage sheet showing drainage areas and hydrologic and hydraulic calculations for each drainage structure. A 25-year recurrence interval shall be used for drainage structure design.
- 4.1.3.5. **Storm Water Pollution Prevention Plan (SW3P)**: A site's storm water pollution plan shall govern the control measures necessary to prevent and control soil erosion, sedimentation, and water pollution which may degrade receiving waters including rivers, streams, lakes, reservoirs, groundwater and wetlands. The control measures contained herein shall be installed and maintained throughout the construction contract, and coordinated with any permanent or temporary pollution control features specified elsewhere on the plans, and in the specifications to assure effective and continuous water pollution control throughout the construction and post construction periods. These control measures shall not be used as a substitute for the permanent pollution control measures, unless otherwise directed by the owner's representative in writing. The controls may include silt fences, straw bale dikes, rock berms, diversion dikes, interceptor swales, sediment traps and basins, pipe slope drains, inlet protection, stabilized construction entrances, seeding, sodding, mulching, soil retention blankets, or other structural or non-structural storm water pollution controls.
  - 4.1.3.5.1. The developer is responsible for obtaining all permits required for storm water pollution prevention.
  - 4.1.3.5.2. The construction plans must include a storm water pollution prevention plan (SW3P). A copy of the plan, as approved by the Office of the County Engineer or Road & Bridge Administrator,

and any applicable permits must be available for review at the construction site.

4.1.3.5.3. Drainage ditches shall be seeded, sodded, or rip-rapped, if, in the opinion of the engineer, it is required for Erosion control.

4.1.3.5.4. All erosion control measures will be maintained in good working order. Disposal areas and stockpiles shall not be located in any wetland, body of water, or streambed. The contractor shall clean paved surfaces as necessary to remove sediment which has accumulated on the roadway. Smith County reserves the right to inspect any construction site and request that changes be made to a SW3P if the site is causing pollution to the environment.

4.1.3.6. **Water Distribution System**: plans shall include, but not be limited to:

4.1.3.6.1. The location and size of all proposed water lines, hydrants, valves, valve boxes, and other appurtenances in relation to the right of way or easements in which the lines are to be located.

4.1.3.6.2. The minimum cover depth to which the water lines are to be installed.

4.1.3.7. **Sanitary Sewer**: plans shall include, but not be limited to:

4.1.3.7.1. The plan and profile of the sanitary sewer line in no larger than a 1" = 50' horizontal scale and a 1" = 5' vertical scale, showing the location and size of all proposed sewer lines in relation to the right of way or easements in which the lines are to be located.

4.1.3.7.2. The location of all appurtenances proposed to be installed.

4.1.3.7.3. The sewer line grades and elevations at all junction points.

4.1.3.8. **Details**: Appendix 1 (Drainage).

4.1.3.9. **Review**: The County Engineer or Road & Bridge Administrator will review the construction plans for their conformance, and return one (1) set of the construction plans to the developer stating:

4.1.3.9.1. That the plans have been approved or,

4.1.3.9.2. The changes that will need to be made before the plans will be approved. If any changes are required, the developer shall have the necessary changes made and submit three (3) copies of the corrected plans to the County Engineer or Road & Bridge Administrator. If all necessary changes have been made, the Office of the County Engineer or Road & Bridge Administrator will return one (1) set of the corrected plans to the developer stating that the plans have been approved.

4.1.4. Construction Bonds, and Funds held in Escrow for adjacent County Road Improvement

4.1.4.1. Construction Bonds: All construction shall be complete within two (2) years after approval of final plat. To insure roads, streets and required drainage and drainage structures are constructed in a timely manner, and in accordance with the terms and specifications contained in this order, the developer shall file a construction bond, in the amount of twenty dollars (\$20.00) per linear foot up to the actual cost of construction, executed by a surety company authorized to do business in this state, and made payable to the "County Judge of Smith County, Texas or his/her successor in office." The construction bond shall be presented to the County Engineer or Road & Bridge Administrator for submission to the Commissioners Court with the final plat and shall remain in full force and in effect until all the roads, street and drainage and drainage structures in the subdivision have been completed to the satisfaction of the County Engineer or Road & Bridge Administrator, and the construction bond has been released by a court order from the Commissioners Court or otherwise expired.

4.1.4.1.1. An irrevocable letter of credit may be submitted in lieu of bonds, for the purpose of insuring a developer's promise to construct and maintain the roads and drainage of facilities in a subdivision, fulfilling the same requirements under the same conditions as construction and maintenance bonds.

4.1.4.1.2. In the event any or all of the streets, roads, drainage and drainage structures, as constructed by the owner, fail to meet the requirements of the foregoing specifications, and the owner fails or refuses to correct the defects called to his attention in

writing by the County Engineer or Road & Bridge Administrator, the unfinished improvements shall be completed at the cost and expense of obligees as provided.

4.1.4.1.3. The release of any bond shall be by order of the Commissioners Court unless the bond has otherwise expired. To request a release prior to expiration, the developer who posted the bond in question shall present a written request to release the bond.

4.1.4.1.4. City controlled ETJ areas<sup>3</sup> may require the escrow of funds in lieu of improvements to existing county roads. The county may apply for release of these funds to pay for improvements, including full depth reconstruction of these roads during the escrow period.

4.1.4.1.5. If so directed by the Commissioners Court, funds may be escrowed for improvements deemed necessary by the court, to existing county roads to be accessed by a new subdivision in areas under county jurisdiction. The escrow policy will follow the terms and rates adopted by the City of Tyler in its escrow procedures.

4.1.5. Fees: All fees are non-refundable and must be paid in full prior to final plat approval.

4.1.5.1. Schedule of fees:

Subdivision with roads	\$250
Subdivision with no roads	\$100
Replat (lot line Adjustment)	\$25
Manufactured Home Rental Community	\$100
Flood Plain Development Permit	\$100
Materials Testing (per ft. of road centerline) for Curb & Gutter Roads	\$1.50/ft.
Materials Testing (per ft. of road centerline) for non-Curb & Gutter Roads	\$1.00/ft.

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<sup>3</sup> See FN 7, page 37.

- 4.1.6. Water Systems: The source or supplier of potable water must be identified. The size of any main pipeline supplying the subdivision must be noted. The developer must show that the supplier or source can deliver potable water at a flow rate equal to the disposal amounts for any sanitary sewer or on sight sewage facility requirements and a pressure of at least 25 psi.
- 4.1.7. On- Site Sewage Facilities Plan (OSSF) or other Sewage Disposal Plan: The plan for sewage disposal should be clearly indicated, i.e., municipal sewer service, privately owned/organized sewage disposal system, private sewage facilities, etc. If it is the owner's intent that each lot purchaser shall provide an OSSF, those facilities must meet the requirements of the TCEQ and the Designated Representative of Smith County.
- 4.1.8. 911 Clearance: A written approval submitted by the 911 District to the County Engineer or Road & Bridge Administrator clearing the planned subdivision of any conflicts with existing subdivision or street names, or any deficiencies that may encumber the issuance of addresses for individual properties in the new subdivision.
- 4.1.9. Tax Certificate: A certificate issued by each Tax Assessor of a political subdivision in which the property is located, bearing an imprint of the Tax Assessor's seal, stating that all taxes are paid and not delinquent.
- 4.1.9.10 Notice of Intent, or approved permit: Issued by TCEQ for any surface water reservoir, lake, or pond not fully contained within an individual residential or agricultural tract.

#### **4.2. Submission to Commissioners Court**

- 4.2.1. The County Engineer or Road & Bridge Administrator will review the final plat for conformance, and place the subdivision on the Commissioners Court agenda and recommend either approval or denial. The developer shall submit to the County Engineer or Road & Bridge Administrator the original in electronic format and on mylar and three (3) reproductions of the final plat along with all other required submission items, at least ten (10) calendar days prior to the scheduled Commissioners Court meeting where that plat may be considered for approval.
- 4.2.2. The Commissioners Court may refuse to approve a plat if it does not meet the requirements prescribed by these rules, is not accompanied by the required submission items, or if any bond required under these rules is not filed with the county.

#### **4.3. Recording of Plat**

- 4.3.1. After the plat has been approved and signed by the County Judge, the plat will be returned to the developer for recording with the county clerk. The final plat must be recorded within six months of approval by the Commissioners Court. A single six (6) month extension may be granted by the Commissioners Court.

#### 4.4. Final Inspection

- 4.4.1. The developer, upon completion of drainage, roads, streets and other facilities intended for the use of the public, or purchasers or owners of lots fronting or adjacent thereto, shall request from the County Engineer or Road & Bridge Administrator a final inspection. The County Engineer or his designee will inspect the completed work for compliance. The developer will be notified in writing of any exception items (work not found in compliance with the subdivision regulations).
- 4.4.2. A written notification of final acceptance will be issued if the developer has, or intends to petition the Commissioners Court to accept Right of Way as County Maintained Right of Way only after a Maintenance Bond has been received by, and all the final inspection exception items have been corrected to the satisfaction of, the Office of the County Engineer or Road & Bridge Administrator.
- 4.4.3. A written notification of final acceptance will be issued if the developer has not petitioned the Commissioners Court to accept the Right of Way as a County Maintained Right of Way only after all the final inspection exception items have been corrected to the satisfaction of the Office of the County Engineer or Road & Bridge Administrator.

#### 4.5. Acceptance of Right of Way by the Commissioners Court as County Maintained Right of Way

- 4.5.1. Acceptance of right of way by the Commissioners Court as County Maintained Right of Way must be pursuant to the policies of the Court and is not predicated on any written notice of final acceptance from the Office of the County Engineer or Road & Bridge Administrator. The developer may petition the Court for acceptance of right of way as County Maintained Right of Way by filing the necessary application; however, should the Court deny any such application, any Maintenance Bond received by the Office of the County Engineer or Road & Bridge Administrator will be returned to the developer. **Appendix 12 (Application For Express Dedications) and Appendix 13 (Application For Implied Dedications).** New projects, once the requirements of these Subdivision Regulations have been met, will receive a recommendation letter from the Road & Bridge Department for acceptance of right-of-way.

Such recommendation may be obtained at the final plat stage where the applicant has properly submitted the application in a timely manner.

#### **4.6. Maintenance Bonds**

- 4.6.1. To insure roads, streets and required drainage and drainage structures are constructed and maintained to the satisfaction of the County Engineer or Road & Bridge Administrator, a two (2) year maintenance bond in the amount of thirty dollars (\$30.00) per linear foot of roadway up to the actual cost of construction, executed by a surety company authorized to do business in this state, and made payable to the "County Judge of Smith County, Texas or his/her successor in office," shall be submitted prior to final acceptance of construction (or as specified in applications for property dedications) and will be substituted for the construction bond at the time of release of the construction bond.
- 4.6.2. The conditions of the maintenance bond shall be that the owner shall "guarantee to maintain, to the satisfaction of the County Engineer or Road & Bridge Administrator, all of the streets, roads, drainage structures and drainage ditches and channels which have been constructed to specifications, with construction security released by court order from Commissioners Court or otherwise expired, in a good state of repair for a period of one (1) year from the date of official release of construction security."
- 4.6.3. Periodical inspection of all the streets, roads, drainage and drainage structures for which maintenance security is held, will be made by the County Engineer or Road & Bridge Administrator during the period of liability covered by the maintenance bond. In the event any or all of the streets, roads, drainage and drainage structures are not being maintained in a good state of repair, the owner will be so advised in writing and, if after a period of thirty (30) calendar days, he fails or refuses to repair the items, they shall be maintained at the cost and expense of obligees as provided in the written orders and/or directive.

### **5. Standards**

#### **5.1. Design**

##### **5.1.1. Lot Layout**

- 5.1.1.1. The minimum lot size shall be in accordance with all applicable state guidelines, including all TCEQ and county rules concerning On-Site Sewage Facilities (OSSF) and sanitary sewer systems.

- 5.1.1.2. Minimum average lot frontage for rural road sections shall be 100 feet. Except in cul-de-sacs, which shall have a minimum frontage of 35 feet.
  - 5.1.1.3. Minimum lot frontage for curb & gutter road sections shall be 50 feet. Except in cul-de-sacs, which shall have a minimum frontage of 35 feet.
  - 5.1.1.4. Side lot lines should normally be at a ninety (90) degree angle to the street, unless approved otherwise by the County Engineer or Road & Bridge Administrator. All straight lines shall clearly show the length and bearing of the line. All curved lot lines shall clearly show the length of the arc and radius of the curve. All lots, so far as practical, shall have their side lines at right angles to the road on which they face, or radial to curved road lines.
- 5.1.2. Utility Easements shall be so designed and constructed as to allow maintenance equipment to enter the easement, and be able to perform the necessary work. No fencing shall be allowed within any surface drainage easement limits.
- 5.1.2.1. For curb and gutter street sections, the Developer shall provide a minimum ten-ft. (10') wide utility easement across the front of lots parallel to, and adjoining, the street right of way. For open-ditch street sections, the Developer shall provide a minimum ten-ft. (10') wide utility easement across the front of lots parallel to, and adjoining, the street right of way, or shall provide a ten-ft. (10') wide utility corridor inside the street right of way parallel to, and adjoining, the street right of way.
  - 5.1.2.2. The width of utility easements located along side lot lines and rear lot lines shall be determined by the Developer. It is the duty of the Developer to insure that all utility easements are of the proper width and location to serve the appropriate utility company.
  - 5.1.2.3. Utility lines crossing and underneath a road shall be installed with a minimum of 36" of cover between the flowline of the ditch line to the top of the pipe, or a minimum of 48" below the top of curb, whichever is greater. All utility lines greater than 3" diameter and under pressure carrying petroleum products must be encased in steel pipe, ductile iron pipe, Schedule 40 PVC pipe, or SDR26 PVC pipe, and a minimum length of 5 feet each side of the ditch lines.

The requirements shown on the Smith County utility permit form shall apply to all utility installations.

- 5.1.2.4. If new roads are constructed over existing petroleum pipeline crossings, encased pipe must be at least 3 feet below the deepest proposed ditch flowline grade, non-cased pipe (of extra wall thickness meeting federal regulations) must be at least 4 feet below the deepest proposed ditch.
- 5.1.3. Drainage Easements - shall generally be located along the existing surface drainage way, and shall meet the following standards:
  - 5.1.3.1. Open channels with top widths greater than 50' require top width plus 25' on each side.
  - 5.1.3.2. Enclosed pipes require 20' minimum width, which is determined on depth of pipe.
  - 5.1.3.3. Swales less than 18" depth require 20' minimum width.
  - 5.1.3.4. The area identified as drainage easement for open channels will be subtracted from the raw lot size in determination of acceptable lot size for construction.
- 5.1.4. Topography and Drainage:
  - 5.1.4.1. Drainage Study: A drainage study detailing the drainage characteristics of the tract prior to development of the subdivision, after completion of the development, and summarizing the net changes and impact on surrounding terrain and/or existing drainage systems may be required to be provided with the construction plans and specifications. The determination of a drainage study requirement will be determined during the preliminary plat process on a case-by-case basis. The presence of the 500 year and 100 year flood plain within the area of the drainage study must be documented.
  - 5.1.4.2. Surface drainage from private property shall be taken to roads, streets, or drainage courses as directly as possible. Drainage water from roads and streets shall be taken to defined drainage courses as directly as possible. Roads and streets shall not be used as major drainage courses.

- 5.1.4.3. All road and street drainage structures shall be complete within twenty four (24) months from the date of plat approval, unless an extension of time is granted by the County Engineer or Road & Bridge Administrator.
- 5.1.4.4. Drainage shall be designed by the developer's engineer. Drainage calculations shall be based on the assumption that all the property in the subdivision, and all the area in the watershed, will be fully developed. **Appendix 1 (showing intensity IDF curves and calculations).**
- 5.1.4.5. Detention ponds, when needed, shall be designed to restrict drainage from the platted area so that the peak discharge rate is equal to or less than when the property was in its natural condition.
- 5.1.4.6. The following design criteria shall be for bar ditches:
- **maximum ditch slope 12.0%**
  - **minimum ditch slope 0.50%**
  - **maximum side slope 3:1**
  - **minimum depth 1' - 6" from end of pipe outlet**
  - **Bar ditches along the pavement shall be designed to carry at least a ten-year storm within the ditches.**
- 5.1.4.7. All structures located within county right of way shall be (1) reinforced concrete, or (2) corrugated, smooth wall, polyethylene (aka, High-Density Polyethylene pipe or "HDPE"), or (3) coated aluminized or better corrugated galvanized steel or aluminum, unless prior approval is obtained from the County Engineer or Road & Bridge Administrator. Minimum pipe diameter for cross drainage structures is 18". Minimum pipe diameter for driveways is 15". Roadway cross-culverts shall have standard TxDOT headwalls or safety end treatment constructed at both upstream and downstream ends. If the developer proposes to construct a major structure, such as a box culvert or bridge, such structures shall conform to current TxDOT standard specifications for culverts and bridges.
- 5.1.4.8. Driveway culvert pipes shall be sized by a registered professional engineer and a map or list containing the size of each pipe shall be shown on the drainage plan. Driveway culverts shall be designed to carry a ten-year storm, with the headwater depth not exceeding a height equal to the diameter of the pipe.

- 5.1.4.9. Roadway culverts and curb inlets shall be designed to carry a 25-year storm without topping the curbs or ditches.
- 5.1.4.10. Drainage structures at crossings of drainage courses with roads or streets shall be designed to carry a 25-year frequency flood without the water level on the upstream side of the structure exceeding a level at least one (1) foot below the top of the edge of pavement.
- 5.1.4.11. Open drainage ditches and channels other than bar ditches shall be designed to adequately carry a 50-year flood with at least 12" of freeboard in the channel and shall be so designed that the maximum velocity of a 50-year flood will be less than the erosive velocity of the ditch material or lining.
- 5.1.4.12. All drainage ways shall be designed so as to function properly without permitting settlement or erosive velocities.
- 5.1.4.13. Calculations and methods for determination of design frequency discharges must be shown on the drainage plan and are subject to approval by the Office of the County Engineer or Road & Bridge Administrator. For small watersheds (up to 200 acres), the rational method shall be used. **Appendix 1 (intensity calculations)**. Other methods are available for the determination of peak discharges and hydrographs and their use may be warranted for a particular situation or for larger watersheds. If an alternate hydrologic method is applied, it must meet the approval of the County Engineer or Road & Bridge Administrator. Otherwise, the procedures of the Smith County Storm Drainage Design Procedure (Appendix1) shall be followed.

#### 5.1.5. Flood Zone

- 5.1.5.1. Subdivisions that are located in a flood zone as shown on the current flood insurance rate map (firm) for Smith County<sup>4</sup> shall meet the following requirements:
- 5.1.5.2. Permanent type bench marks shall be set in appropriate locations with the description and elevation shown on the plat. The same elevation datum shall be used as was used on the firm map panel.

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<sup>4</sup> Note: The most current Smith County flood insurance rate map is automatically incorporated herein when FEMA revises the map.

- 5.1.5.3. A note on the plat stating "development in the floodplain requires a county development permit, as required by the flood damage Prevention ordinance."
- 5.1.5.4. All subdivision proposals shall be consistent with Smith County flood damage prevention ordinance regulations.
- 5.1.5.5. Contours at four foot (4') intervals shall be shown on the floodplain portion of the lots shown on the plat (matching the same contour interval available on the new Smith County Aerial Mapping so that the new mapping can be used).
- 5.1.5.6. The finished floor elevation must be shown for each lot and shall be one foot above the base flood elevation.
- 5.1.5.7. No cut or fill of the natural terrain may take place within either the 500 year or 100 year flood way (as determined by the most current FEMA map) without first submitting a detailed study of the flood plain showing the net impact of the cut or fill on the flood plain boundaries, along with the drainage study, to the County Engineer or Road & Bridge Administrator and obtaining a permit detailing the cut or fill activities to be executed from same.

#### 5.1.6. Roads

- 5.1.6.1. All roads or streets shall have a minimum grade of five-tenths percent (0.5%). Grades of more than twelve percent (12%) shall only be allowed upon approval of the County Engineer or Road & Bridge Administrator.
- 5.1.6.2. Centerline elevations shall be shown on the profile unless a curb and gutter section is proposed. Pavement cross-slope shall be 0.25 inch per foot (2.08%) from the centerline for rural road designs. Curb and gutter designs must have a parabolic crown. **See also, Table 1.**
- 5.1.6.3. A design speed of 30 mph shall be used for subdivision street design with minimum k values for sag vertical curves being 40 and crest vertical curves being 30. Minimum vertical curve lengths (l) shall be determined using  $l = ka$ , where a is the algebraic difference in grades in percent. Vertical curves shall be used for grade changes greater than 1%.

- 5.1.6.4. A proposed subdivision that adjoins or encompasses an existing public street, that does not conform to minimum right of way requirements of these regulations, shall provide for the dedication of additional right of way along either or both sides of the street so that the minimum right of way required by these regulations can be established. If the proposed subdivision abuts only one side of the street, then a minimum of half of the required right of way shall be dedicated by such subdivision.**
- 5.1.6.5. Where any portion of a road or street has been dedicated in an adjoining subdivision, adjacent to and along the common property line of the two subdivisions, enough width of right of way must be dedicated in the new subdivision to provide the minimum width specified herein.
- 5.1.6.6. New roads or streets, which are a continuation of an existing road or street, shall be a continuation, without off-set, of the existing road or street. Roads or streets which are a continuation of any existing road or street shall take the name of the existing road or street.
- 5.1.6.7. Where roads or streets in an adjoining subdivision end at the property line of a new subdivision, the roads or streets shall be continued throughout the new subdivision. Where there are no adjacent connections platted, the roads in the new subdivision shall be a reasonable projection of the roads or streets in the nearest subdivisions.
- 5.1.6.8. Dead-end roads shall have a maximum length of 1320 linear feet and shall have a turn around (cul-de-sac) at the end, (measured along the centerline and ending at center of the cul-de-sac). Roads extended to the subdivision line for future extension may require a temporary cul-de-sac if the length exceeds 1320 feet without an intersecting street and the extension will not be constructed in the next phase of the development.
- 5.1.6.9. All roads or streets preferably shall intersect at a ninety (90) degree angle. Where this is not possible, the intersection, on the side of the acute angle, shall be rounded with a curve or a cut-back, but in no case, shall the curve have less than a twenty-five foot (25')

radius, unless approved otherwise by the County Engineer or Road & Bridge Administrator.

- 5.1.6.10. Miscellaneous paving and drainage details will generally be those currently approved by the City of Tyler.
- 5.1.6.11. Unless an adequate development-maintenance agreement is in place clearly indicating that the county is not responsible for maintenance, there shall be no decorative squares, trees, "islands," ornamental entrances or any other obstruction to traffic constructed or preserved within the right of way of a road dedicated to the public.<sup>5</sup> If landscaping six inches (6") or less in height, and/or irrigation is proposed within the right of way, the owner shall create a body (municipal utility district, home owners association, neighborhood association, etc.), that will be responsible for the maintenance and liability of the landscaping and/or irrigation system.
- 5.1.6.12. Subdivisions may be developed with private streets and alleys instead of public streets and alleys, if the development complies with the requirements of this section. Private streets shall conform to the same standard regulating the design and construction of public streets. Subdivisions streets developed with private streets must have a mandatory property owners association which includes all property served by private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances. Smith County shall not pay for any portion of the cost of constructing or maintaining a private street. The entrances to all private streets must be marked with a sign stating it is a private street.
- 5.1.6.13. Design Sections - Typical roadway design cross sections are shown on Figure 2a and Figure 2b.
- 5.1.6.14. Pavement Sections – The engineer shall design a pavement section for each road using the City of Tyler's Pavement Design standards located in the Subdivision Design Guidelines. An additional rural roadway section has been added and is shown (as future traffic is less than 500 cars per day and 2 percent trucks).

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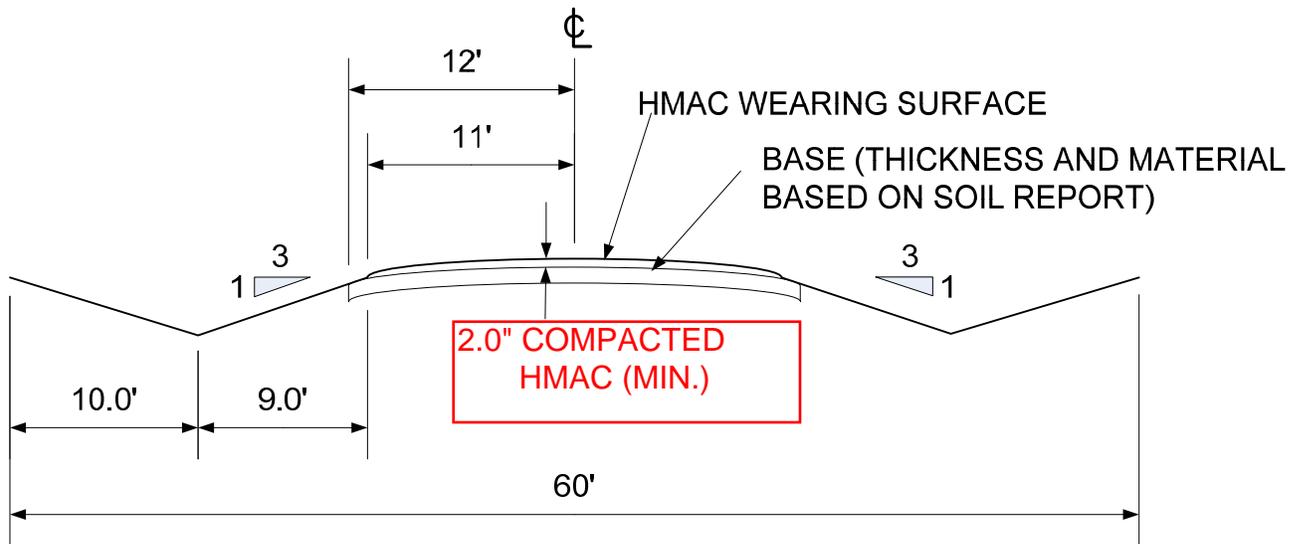
<sup>5</sup> Additionally, the county does not accept major items such as street lights, municipal-type sewer systems and lines under the road way surface, underpasses or other similar infrastructure into its maintenance system due to the extraordinary expenses related with upkeep of such items.

**Appendix 3, Modified Table 11-A-2, which should be used when anticipated.** The signed and sealed pavement design report, with subgrade test data as required below, shall be submitted to the County Engineer or Road Administrator, prior to subgrade inspection.

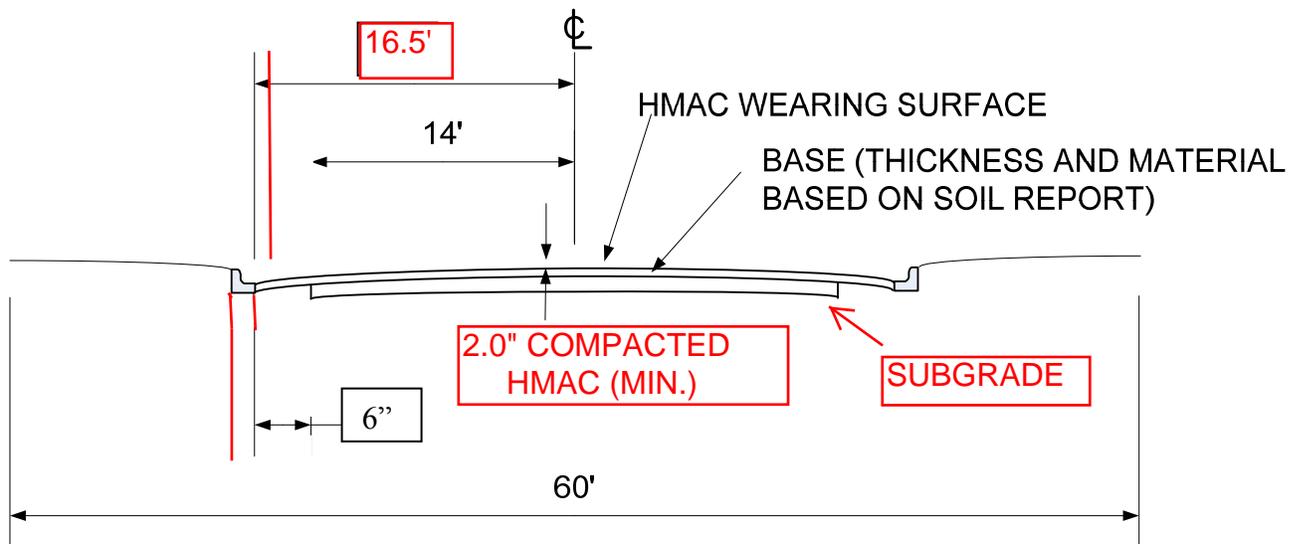
- 5.1.6.15. Prior to the start of construction on a roadway pavement section, a soil analysis shall be made by a certified soil laboratory to determine what type of soil stabilizer (lime, cement, liquid chemical, etc.) is required. This analysis shall be paid for by the developer and submitted to the County Engineer or Road & Bridge Administrator in the pavement design report. Representative subgrade samples will be obtained for this analysis in sufficient number to show whether subgrade soil properties are uniform throughout the development. The report will show location and results of the borings or samples. Compaction will ultimately be based on passing 95% standard proctor (ASTM D698).

**Table 1: Typical Road Sections**

Sections	Rural	Curb & Gutter		Planned Development	
		Less than 60 lots	60 or more lots	Rural	Curb & Gutter
Right of Way Width	60 ft	55 ft	60 ft	55 ft	55 ft
Pavement Width	22 ft	29 ft (incl. curb)	33 ft (incl. curb)	22 ft	29 ft (incl. curb)
Base Course Width	24 ft	24 ft	28 ft	24 ft	24 ft
Subgrade Width	26 ft	30 ft	34 ft	26 ft	30 ft
Dead End Max Length	1320 ft	1320 ft	1320 ft	1320 ft	1320 ft
Cul-de-sac Right of Way Radius	60 ft	60 ft	60 ft	60 ft	60 ft
Cul-de-sac Pavement Radius	42 ft	47 ft	46.5 ft	42 ft	47 ft



**2a: Typical Rural Road Section**



**2b: Typical Curb & Gutter Section (60+ lots)**

**Figure 2: Typical Road Sections**

5.1.7. **Manufactured Home Communities and Manufactured Home Rental Lots** - The owner of land located in Smith County outside the limits of a municipality who intends to use the land for a manufactured home community or manufactured home rental community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards that are set out below. **See also, Appendix 8.**

- 5.1.7.1. Prior to beginning any construction, the owner must submit the plan to the Office of the County Engineer or Road & Bridge Administrator for approval. Construction may not begin before the plan is approved.
- 5.1.7.2. Not later than the 30<sup>th</sup> day after the date the plan is submitted, the Office of the County Engineer or Road & Bridge Administrator shall approve or reject the plan in writing. If the plan is approved, construction may begin immediately. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within forty five (45) days from written submission will constitute approval of the plan.
- 5.1.7.3. The Office of the County Engineer or Road & Bridge Administrator, as well as his designate, may inspect the infrastructure at any reasonable time during construction, and the owner and his agents shall not hinder such inspections.
- 5.1.7.4. On completion of construction, the owner shall confirm in writing to the Office of the County Engineer or Road & Bridge Administrator that the infrastructure is complete, and a final inspection shall be completed within two (2) business day after the date of notice. If the inspector determines that the infrastructure does not fully comply with the plan, the owner shall be given an opportunity to correct the deficiencies. On completion of corrective construction, the owner shall request another inspection.
- 5.1.7.5. When the inspector determines that the infrastructure complies with the plan, the Office of the County Engineer or Road & Bridge Administrator shall issue a certificate of compliance not later than the fifth (5<sup>th</sup>) business day after the day the final inspection is completed.
- 5.1.7.6. A utility may not provide utility services, including water, sewer, gas, and electric services, to a manufactured home rental community or to a manufactured home in the community unless the owner provides the utility with a copy of the certificate of compliance.

- 5.1.7.7. The infrastructure development plan - for a manufactured home community or manufactured home rental community must include each of the following:
- 5.1.7.7.1. A survey identifying the proposed community's boundaries and any significant features of the community, including the proposed location of lots or spaces, utility easements, and dedication of rights-of-way. The survey may also contain features to help provide the additional information required by this order.
  - 5.1.7.7.2. Drainage Plan in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100 year flood plain.
  - 5.1.7.7.3. Water Supply Plan to provide an adequate public or community water supply, including specifying the location of supply lines, in accordance with subchapter c, chapter 341, Health and Safety Code, and any amendment thereof. If water is to be provided by a utility, a certification by the utility that water is available for each of the planned spaces or lots must be attached to the plan.
  - 5.1.7.7.4. Plans for providing sanitary sewer lines and connections to municipal or other permitted sewage facility, or On Site Sewage Facilities (OSSF) in accordance with chapter 366, Health and Safety Code and chapter 285, and any amendment thereof. This plan approval, having been reviewed and approved by the Smith County designated representative, must be attached to the plan.
  - 5.1.7.7.5. Road Plans for streets or roads in the community to provide ingress and egress for fire and emergency vehicles. All streets and roads in these communities shall be built to the same standards (but to no more stringent standard) than the requirements adopted by the court for subdivisions.
  - 5.1.7.7.6. All road design and construction standard contained in the Smith County subdivision regulations, as amended from time to time, are therefore incorporated by reference into this order as fully and completely as if set out verbatim herein. The street or road specifications in the infrastructure development plan must

comply with those standards to the maximum degree practicable.

5.1.7.7. All road specifications must include adequate provision for roadway maintenance to guarantee future ingress and egress by fire and emergency vehicles.<sup>6</sup> It shall provide adequate financing mechanism for private maintenance. The plan must contain a covenant that every future lease or rental agreement will inform the tenants that the county will never maintain any road or street in the community under any circumstances.

5.1.7.8. Issuance of a certificate of compliance under this order does not indicate compliance with any city, state or federal requirements. Only the Smith County Commissioners Court may grant a variance when strict application of these standards would work an unusual hardship.

5.1.7.9. Penalties: Violation of this order may result in the denial of utility service. The requirements of this order have been established by and adopted by the Smith County Commissioners Court under chapter 232 of the Texas Local Government Code, as amended, and all the civil and criminal penalties applicable under that chapter shall apply to violations of this order.

#### 5.1.8. Planned Developments<sup>7</sup>

5.1.8.1. The purpose of the “planned developments” is to provide for the medium to high density development of unique and innovative forms of housing utilizing individually platted lots. A planned development utilizes the total space within a development by creating common open spaces, scenic and recreational areas, and other spaces, which will compensate for the reduction of land area dedicated for the residential structure. It is the intent of the “planned development” plat to provide for residential developments that utilize public streets, or private streets owned and maintained by a homeowners association, and common areas owned and maintained by a homeowners association. The “planned

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<sup>6</sup> Including street signs.

<sup>7</sup> Note: Planned communities within a municipal extra-territorial jurisdiction may be subject to streamlined platting procedures under an interlocal agreement between the county and the applicable municipality. Streamlined “platting” is not the same thing as acceptance of right-of-ways into the county maintenance system (even if such roads are designated as “public.”).

development” is not intended as a tool for a mass variance to infrastructure requirements set forth in the subdivision regulations.

- 5.1.8.2. A “planned development” shall not circumvent the lot size requirements established by the county in accordance with all applicable state guidelines, including the TCEQ on-site sewage facility rules.
- 5.1.8.3. A “planned development” may allow for the construction of rural roadway sections on lots less than 100 feet in width if the plan shows the sharing of driveway culverts for adjacent lots.
- 5.1.8.4. A “planned development” may allow for the construction of curb and gutter street sections with laydown curb and gutter if the plan shows that proper drainage facilities are being provided. A “planned development” may allow for the construction of curb and gutter street sections with narrower widths if the plan shows that the street will carry only local traffic with low traffic volumes.
- 5.1.8.5. The approval of a “planned development” by Smith County requires the submittal of a detailed site plan with the submittal of the final plat. The site plan shall include the items shown below. Once the detailed site plan of the “planned development” has been reviewed and approved by the County Engineer or Road & Bridge Administrator, the detailed site plan and final plat shall be submitted to the County Commissioners for review and approval. A “letter of agreement” shall also be submitted to the County Commissioners by the developer agreeing to construct the improvements as shown on the detailed site plan. In addition, before a roadway project is accepted by the county for maintenance, all infrastructure improvements shown on the detailed site plan must be completed.
- 5.1.8.6. The detailed site plan shall include:
  - **The names and addresses of applicant and/or owner of the property as well as the Engineer preparing the site development plan.**
  - **A North arrow, scale, and location map.**
  - **Property dimensions of the site and lot areas.**
  - **Existing streets located within or adjacent to the subject property.**
  - **The proposed size, elevations, location and arrangement of houses, landscaping, building setbacks, screening, common areas, and parking areas.**

- **The proposed arrangement of, and number of, streets, parking spaces, entrance and exit drives, and their relationship to existing streets, alleys and other public property.**
- **Proposed control grades to indicate the intent of the developer.**
- **Adjacent properties, including the location and type of buildings and structures thereon.**
- **Any proposed screening walls, fences, or retaining walls.**
- **The existing topography with contour no greater than four feet.**

## **5.2. Construction**

5.2.1. General: The following shall be the minimum specifications for the preparation and construction of subdivision streets outside an incorporated city in Smith County. All work, methods, materials, and equipment, not covered by these regulations shall conform to the 1993 issue of TxDOT's standard specifications for construction and maintenance of highways, streets, and bridges.

5.2.1.1. The Office of the County Engineer or Road & Bridge Administrator shall be notified seventy-two (72) hours prior to the commencement of any major construction, including but not limited to, such items as sub-grade stabilization, concrete paving, concrete curb and gutter and asphalt paving. Subgrade and base courses must each pass a proof roll compaction test witnessed by an inspector from the Office of the County Engineer or Road & Bridge Administrator prior to the developer beginning the next course. The county will periodically inspect all subdivision roads and drainage structures, while under construction, to ascertain that the construction work, methods, and materials meet county specified standards. All construction and testing reports shall be furnished to the County Engineer or Road & Bridge Administrator certifying that the construction requirements of these regulations have been met. The test results must be approved by the County Engineer or Road & Bridge Administrator prior to constructing the next course of the pavement. The developer or his contractor shall supply a loaded dump truck with driver for proof-roll tests.

5.2.1.2. The County Engineer or Road & Bridge Administrator shall issue a stop work order whenever the developer or his contractor fail to adhere to the plat, plans or specifications approved by Commissioners Court. The developer may not continue development until the deficiencies listed in the stop work rider are corrected. If the developer or his contractor fails to correct the

deficiencies, the subdivision will not be accepted by Commissioners Court.

5.2.2. **Monumentation:** All blocks, corners and angles shall be marked in accordance with minimum standards set forth by the Texas State Board of Professional Engineers and Land Surveyors. Where practical, all corners shall be marked with caps stamped with the surveyor and/or company name.

5.2.3. **Roads**

5.2.3.1. **Site Preparation:** All preparation of the right of way and/or clearing and grubbing shall be completed prior to subgrade preparation. The prepared right of way and subgrade shall be free of boulders, stumps, vegetation, and other foreign matter.

5.2.3.2. **Subgrade:** The subgrade shall be scarified and shaped in conformance with the typical sections and the lines and grades indicated, or as established by the engineer, by the removal of existing material or addition of approved material. All unsuitable material shall be removed and replaced with approved material. All fills must be placed and compacted on horizontal lifts of not over four inches (4") depth to the specified density. Fill sections whose depth exceed eight feet (8'), at any point on the cross section, shall require a slope stability analysis and/or approval of the County Engineer or Road & Bridge Administrator.

5.2.3.2.1. The subgrade shall be compacted and shall pass a proof-roll test prior to construction of the base course. If the subgrade fails to meet the density specified, it shall be reworked as necessary to obtain the density required. Compaction will ultimately be based on passing 95% of standard proctor (ASTM D 698) at optimum moisture content if deemed necessary by the County Engineer or Road & Bridge Administrator.

5.2.3.3. **Base Course:**

5.2.3.3.1. **Flexbase:** The base material must meet the requirements of TxDOT item 247, flexible base, Type "A" Grade 1 or 2. The base material shall be compacted and shall pass a proof-roll compaction test prior to construction of the surface course. Compaction will ultimately be based on passing 95% of modified proctor (ASTM D 1257) at optimum moisture content if deemed necessary by the County Engineer or Road & Bridge Administrator. The base

course shall be shaped by blading, and the surface, upon completion, shall be smooth and in conformance with the typical section indicated, and to the established lines and grades. All irregularities, depressions or weak spots which develop shall be corrected immediately by scarifying the areas affected, adding suitable material as required, reshaping, and recompacting by sprinkling and rolling.

5.2.3.3.1.1. Should the base course, due to any reason or cause, lose the required stability, density or finish before the surface is complete; it shall be recompacted and refinished at the sole expense of the contractor. The base course shall receive a prime coat after compaction has been approved. The prime coat shall meet the requirements for item 310, prime coat, and TxDOT specifications. MC-30 or AEP will be applied at a rate of 0.25 gal/sy to the base material.

5.2.3.3.2. Asphalt hot mix base: The hot mix asphaltic concrete pavement coarse aggregate will be so crushed that a minimum of eighty (80%) percent of particles retained on #4 sieve will have more than one crushed face when tested in accordance with test method TEX.-413a (particle count). For Type "D" surface material, the asphaltic material will form from 5 to 8 percent of the mixture by weight. For Type "B" base material, the asphaltic material will form from 3.5 to 7 percent of the mixture by weight. For both surface and base material, the asphalt content used will be that percent required obtaining optimum density. This percent asphalt will be obtained from a mix design performed according to Texas department of transportation 1993 standard specifications. The mix design for base and surface material shall be reviewed and approved by the County Engineer or Road & Bridge Administrator. The actual asphaltic material contained in the delivered mix will be within a + 0.50% tolerance of the content specified in the mix design.

5.2.3.3.2.1. The HMAC will be installed at an application rate of 110/lbs/sy/in of depth for both Type "D" and Type "B." At the seams where the new HMAC meets the existing HMAC, or concrete headers, or valley gutters, or curb and gutter, a tack coat (RC-250) will be applied to the seams at a rate of 0.05 gal/sy.

- 5.2.3.3.2.2. When installing Type "D" HMAC on a Type "B" base, a tack coat (RC-250) will be applied on the base if the base has been in place for more than three days, or if required by the engineer. The tack coat will be applied at a rate not to exceed 0.05 gal/sy and rolled with a pneumatic roller.
- 5.2.3.3.2.3. The Type "D" and Type "B" HMAC will be installed with an approved HMAC laying machine, unless otherwise approved by the County Engineer or Road & Bridge Administrator. A motor grader is not approved to install HMAC.
- 5.2.3.3.2.4. Paving operations will be conducted in such sequence that vehicles transporting asphaltic concrete material to this project will not travel over the completed pavement until the pavement will have been in place for a minimum of twenty-four (24) hours, unless otherwise directed by the County Engineer or Road & Bridge Administrator. Joints will be staggered so that they fall at least 12" from the previous joint.
- 5.2.3.3.2.5. Storage of the completed mix upon the ground will not be permitted at the mixing plant or the job site. Any mix that comes into contact with earth or other objectionable foreign matter will be rejected.
- 5.2.3.3.2.6. Hot mix asphaltic concrete will be accepted for density and depth on a lot basis. A lot will consist of one day's production or 600 tons, whichever is less, and shall be divided into four equal sublots. One test shall be made for each subplot, unless the County Engineer or Road & Bridge Administrator judges the lot too small to warrant testing.
- 5.2.3.3.2.7. Each lot of pavement will be accepted, with respect to density, when the average field density is equal to or greater than 90.0 percent of the average maximum theoretical density as determined in accordance with ASTM D2041, and when no individual determination is less than 86.0 percent of the average maximum theoretical density. Four (4) field density determinations will be made for each lot. Cores or sawed samples taken from the pavement will be used to determine the field density. The density of the

cored or sawed samples shall be determined in accordance with ASTM D2726.

5.2.3.3.2.8. The specimen used to determine the average maximum theoretical density for a lot may be sampled by any one of the following four methods:

- A sample may be removed from the truck delivering the HMAC for the lot being tested.
- A sample may be removed from the HMAC laying machine placing the lot being tested.
- A sample may be created by combining the material from the four individual core samples used for field densities.
- A sample may be created from each individual core sample used for field densities, with the results being averaged.

5.2.3.3.2.9. Specimens used for field density determination shall be carefully crumbled, using heat if necessary. If heating is necessary, the specimen shall be heated to the lowest temperature required for proper preparation of the sample.

5.2.3.3.2.10. The use of nuclear field density determinations shall not be used as the basis for acceptance with respect to density.

5.2.3.3.2.11. Each lot of pavement will be accepted, with respect to depth, when the average field depth deficiency is equal to or less than 0.25 inches for base courses and equal to or less than 0.13 inches for surface courses, and when no individual determination is deficient more than 1.00 inch for base courses and more than 0.50 inches for surface courses. Four (4) field depth determinations will be made for each lot. Cores of sawed samples taken from the pavement will be used to determine the actual depth.

#### **5.2.3.4. Wearing Surface:**

##### **5.2.3.4.1. Flexible Pavement: Hot Mix Asphaltic Concrete (HMAC)**

5.2.3.4.1.1. The surface course shall be a minimum of two inches (2") of HMAC meeting the specifications item 340, Type "D," in 1993 TxDOT specifications.

5.2.3.4.1.2. All asphaltic mixtures shall be placed with an approved HMAC laying machine. The mix shall be compressed thoroughly and uniformly compacted immediately after placing to the required density. All compaction rolling shall be complete before the material cools below 175 degrees f. The completed surface shall meet the approval of the County Engineer or Road & Bridge Administrator for riding surface, finish and appearance.

5.2.3.4.2. Rigid Pavement: Concrete

5.2.3.4.2.1. Aggregate used in the mix shall be on the TxDOT quality monitoring schedule. Test cylinders will be required for each 50 cubic yards or a minimum of one cylinder of each class of concrete. A slump test will be required with each set of test cylinders. Air entraining and retarding agents used shall be from the approved TxDOT list.

5.2.3.4.2.2. The wearing surface shall be a minimum of five inches (5") of class "S" (3600 psi) concrete with number three (#3) bars at sixteen inch (16") centers both ways. Concrete shall not be placed when the ambient temperature is below 40 degrees fahrenheit and falling, without permission from the County Engineer or Road & Bridge Administrator.

5.2.3.4.2.3. No concrete shall be poured at any time unless the Office of the County Engineer or Road & Bridge Administrator is notified twenty-four (24) hours in advance.

5.2.3.5. Mailboxes

5.2.3.5.1. Mailboxes are the only permanent structures that may be installed within the right of way with the exception of utilities, and structures erected by the county. Mailboxes shall be set a minimum of three (3) feet from the edge of the pavement or one (1) foot behind curbs. All mailboxes within the county right of way shall meet the current TxDOT standards and US Postal Service requirements, and must be placed in a manner that does not interfere with two (2) lane visibility.

5.2.3.5.2. Mailboxes shall be clearly marked with the county road number and box number on either side.

## **6. Variances**

6.1. Any variance from these regulations shall be requested in writing to the Office of the County Engineer or Road & Bridge Administrator, along with any technical data, plans, specifications, calculations, or reports that office may deem necessary to provide assurance that the intent of the section or sections being waived is being met and that strict adherence to those sections will cause unnecessary hardship and are counterproductive, or are not applicable. Upon careful review of the variance application the Office of the County Engineer or Road & Bridge Administrator will forward this application to the Smith County Commissioners Court along with its recommendation. Actual approval of any variance can only be granted by the Smith County Commissioners Court.

## **7. Platting of Existing Unplatted or “Illegal” Subdivisions**

7.1. Platting of an existing, previously unplatted, subdivision shall be done in accordance with the most current revision of these subdivision regulations. The Smith County Commissioners Court may at its discretion act to enjoin the sale or lease of properties in an existing unplatted subdivision in accordance with the provisions of Local Government Code Chapt. 232, as amended, until the subdivision comes into a compliant status with such regulations.

## **8. Cancellation of a Plat**

8.1. Plats shall only be cancelled in accordance with Local Government Code Chapter 232. **Appendix 7; see also, Appendix 9.**

## **9. Severability**

9.1. If any provision of this order, or the application thereof, to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the order which can be given effect without the invalid provision or application, and to this end, the provisions of this order are declared to be severable.

## **10. Miscellaneous Provisions**

10.1. **Retention of Texas Water Development Board Rules:** The “Model Subdivision Rules” as set forth, and as amended by the Texas Water Development Board and found at 31 Tex. Admin. Code Chapter 364, are hereby made applicable only to those areas or portions of Smith County, Texas

that meet the definition of a “colonia” as defined by the State in the Administrative Code or Administrative Register.

10.2. **Classification Ratings System:** The Road & Bridge Department maintains an internal classification ratings system for county roads. Where such roads are in the county-maintenance inventory, the county will only *maintain* the road based on its classification. Upgrading a road to a higher classification is generally not permissible, unless there is a justification for the county to do so. Justification includes, but is not limited to, growing heavy-haul traffic that will clearly have a future impact on the sustainability of the road. The classifications are as follows:

- Class A – Good condition
- Class B – Fair condition
- Class C – Bad condition
- Class D – Poor condition
- Class F – Failing condition

**For entry into the county’s maintenance system, the roads must first meet all conditions and requirements of new roads as set forth in these regulations. This more likely than not means that the road must receive a Class A rating to be accepted; however, “Public” Class F roads may be considered for the limited purpose of making such road passable for emergency vehicle’s and school buses. Class F roads will almost always be dirt and/or gravel roads. The Class F limited exception is only for “public” Class “F” roads that are at least fifteen (15) to twenty (20) years old in subdivisions where the original land developer failed to record a plat and there is a significant public interest to provide maintenance based on the existing infrastructure in the applicable subdivision. Class “F” roads meeting this criteria must have their subdivision plat or a surveyor’s plat filed and be laid out according to law as either a dirt or gravel road pursuant to the Implied Acceptance policies in Appendix 13.<sup>8</sup> The Road & Bridge Department will inspect the road for a recommendation as a Class “F” entry while incorporating a sliding scale cost factor for the type of maintenance based on the existing infrastructure in the subdivision.<sup>9</sup>**

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<sup>8</sup> Signage placed must designate the Class “F” status by placing in small letters the words “Class F” on the road sign.

<sup>9</sup> The road maintenance in this situation shall be blade only at least once a year.

## Appendix 1

### Smith County Storm Drainage Design Standard

(Based on the City of Tyler Storm Drainage Design Standard prepared by Wisenbaker Fix and Associates – 1974, 92 pages)

Note: IDF curves in the original study have been changed. The original curves were based on Technical Paper 40. This paper has been revised with "Hydro 35." The IDF curves shown in Hydro 35 have been converted to "e, b, and d Values."

#### Intensity calculations for Rational Method Values for e, b, & d

I = Intensity in inches per hour

Tc = time of concentration in minutes

Where  $I = b / (Tc + d)^e$

Storm Event Intensity	e	b	d	Example Intensity (if Tc=10)	Tc=15	Tc=20	Tc=30
I 2	0.819	66	12.6	5.13			
I 5	0.778	68.2	13.3	5.89			
I 10	0.771	77	14.7	6.5			
I 25	0.723	71.7	13.5	7.32	6.36	5.66	4.69
I 50	0.698	71	12.6	8.06	7.01	6.24	5.18
I 100	0.547	40.3	6.7	8.64	7.49	6.68	5.62

Appendix 2

Surveyor's Statement

I, \_\_\_\_\_, registered professional surveyor no. \_\_\_\_\_, do hereby certify that the above plat was prepared from an actual survey made \_\_\_\_\_ (by me) or \_\_\_\_\_ (under my direction and supervision) on the ground during \_\_\_\_\_ (month & year).

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
(signature)  
(seal)

Subscribed and sworn before me, a notary public, in and for the state of Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

Owner's statement

I (we), \_\_\_\_\_ (owners name and title if applicable) (am \are)owner(s) of the tract of land shown hereon and do accept this as its plan for the subdivision into lots and blocks and do dedicate to the public forever the streets, alleys, and easements as shown.

\_\_\_\_\_  
(signature)(signature)

Subscribed and sworn before me, a notary public, in and for the state of Texas, This the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
(signature)  
(seal)

### Appendix 3

### Pavement Design

Modified Table II-A-2

<b>Subgrade or Flex-base CBR (%)</b>	<b>Residential Inches</b>
--	-------------------------------

2	30
3	22
4	19
5	16
6	14
7	12
8	11
9	10
10	9
11	8.5
12	8
15	7.5
20	7.5
25	7.5
Base minimum cbr %	60

## Appendix 4

Policy For Takings Impact Assessment: In 1995, the Texas legislature passed senate bill 14, the private real property rights preservation act, which is codified in chapter 2007 of the Texas Government Code. Beginning September 1, 1997, counties must begin complying with these provisions. Section 2007.043 of the act requires that every county action, including every regulation, policy, guideline, court resolution or order, be analyzed to determine whether the action may result in a "taking" of private real property. This may be done as follows:

1. By determining that the action is not a taking because it falls within one of several predetermined categories of actions that by their nature will have no adverse effect on private real property; actions not subject to the act include:
  - 1.1. An action taken which is mandated by state or federal law
  - 1.2. Action taken to prohibit or restrict a condition or use of private real property if the governmental entity proves that the condition or use constitutes a public or private nuisance
  - 1.3. An action taken out of a reasonable good faith belief that the action is necessary to prevent a grave and immediate threat to life of property.
  - 1.4. A formal exercise of the power of eminent domain.
  - 1.5. A rule of proclamation adopted for the purpose of regulation of water safety, hunting, fishing, or control of non-indigenous or exotic aquatic resources.
  - 1.6. An action taken to regulate construction in a floodplain.
  - 1.7. An action taken to regulate on-site sewage facilities.
  - 1.8. An action taken pursuant to statutory authority to prevent waste or protect rights of owners of interest in groundwater.
  - 1.9. The appraisal of property for the purpose of ad valorem taxation.
  - 1.10. An action that is taken in response to a real and substantial threat to public health and safety; is designed to significantly advance the health and safety purpose; and does not impose a greater burden than is necessary to achieve the health and safety purpose.
2. By performing a takings impact assessment (TIA).
  - 2.1. If a TIA study is done, the county is required to provide at least 30 days notice of its intent to engage in any such proposed action. The notice must be published in a newspaper of general circulation in Smith County and it must include a reasonably specific summary of the TIA.
  - 2.2. Failure to perform a TIA on any governmental action not exempt from the provisions of chapter 2007 results in that action being void. Even if a TIA has been performed, an affected property owner can sue, within 180 days, to invalidate the action and/or declare a taking, if they can prove that the action reduced the value of their property by 25% or more. Additionally, the prevailing side in these suits is entitled to court costs and attorney's fees from the loser.
  - 2.3. In consideration of expediting and shortening the approval process for platting, the developer may elect to waive the rights granted under the private real property right

preservation act by executing a "waiver of takings impact assessment (TIA)." The waiver must be included with the final plat if the developer elects to exercise this option.

Appendix 5

Irrevocable Letter Of Credit (Sample Form)

Irrevocable letter of credit no. \_\_\_\_\_ date : \_\_\_\_\_

Beneficiary : Smith County Judge or successor in office: \_\_\_\_\_

Applicant: Smith County Road & Bridge Dept.  
P. O. Box 990  
Tyler, Texas 75710

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

Amount : \$ \_\_\_\_\_ expiration date: \_\_\_\_\_

We hereby authorize you to draw at sight on (name and location of bank) for the account of (name of applicant) up to the aggregate amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_ ) available by our draft, accompanied by a certification by the County Judge, thru Smith County Road & Bridge Dept. that the following conditions exists:

“We hereby certify that (name of applicant) has failed to perform in accordance with the terms and conditions of that certain (construction / maintenance) bond regarding (name of subdivision) between Smith County Judge or the successor in office and (name of applicant).”

Drafts must be drawn and presented by or on [expiration date] by the close of business of the issuer of this credit and must specify the date and number of this credits. Drafts will be honored within five calendar days of presentment. We hereby engage all drawers that draw and presented in accordance with this credit shall be duly honored. Partial draws are permitted and the letter of credit shall be reduced by the amount of such partial draws as well as by any reduction letters authorizes by the county. The sum of such partial draws shall not exceed the stated amount of this credit, and upon any draw or reduction letter which exhausts this credit, the original of this credit will be surrendered to us. Except as expressly stated, this credit shall be subject to the uniform customs and practice for documentary credits (1983 revision), international chamber of commerce (publication no. 400).

This credit is irrevocable to its expiration date unless both parties consent to revocation in writing.

Address of Issuer : \_\_\_\_\_

Signature of Issuer’s authorized officer: \_\_\_\_\_ Date: \_\_\_\_\_

Printed name : \_\_\_\_\_ Title: \_\_\_\_\_

Appendix 6



### Flood Plain Development Permit

To be completed by property owners, builders, and/or developers planning any development in Zones A or B of the Flood Plain as designated on FEMA FIRM maps

To:

Director, Smith County Road & Bridge Department  
P.O. Box 990; Tyler, Texas 75710; (903)-590-4801

From:

Name:	Permit No.:
Address:	
Phone:	
Name of Development:	
Site Address:	
(attach map)	

Application fee(s): \_\_\_\_\_ received by: \_\_\_\_\_

Nature of proposed construction (check and complete as appropriate):

- new construction    residential single family    residential multi family    commercial
- alteration of a natural waterway or drainage course    placement of fill
- substantial improvement to an existing structure
- manufactured home or building    church or school    medical facility

To minimize potential flood damage the applicant agrees to construct any proposed development in accordance with the following special provisions:

1. For residential structures, the lowest floor (including basement) must be elevated 1.0 foot above, so as to be at or above the flood level expected for any 100-year period in your area.
2. For non-residential structures, the building must be flood-proofed to withstand the floor depths, pressures, velocities, impact and uplift forces associates with a 100 year flood, or else the lowest floor must be elevated to be at a minimum of 1.0 foot above the 100-year flood level.

3. The foundation of the structure and materials used must be able to withstand the pressures, velocities, and impact forces associated with a 100 year flood.
4. The water supply inlet and private sewage facility outlet must have an automatic backflow device installed.
5. All plans, site survey data, specifications, and calculations must have been prepared, signed, dated, and sealed by either a registered professional engineer or land surveyor in accordance with the rules of the Texas State Board of Registration for Professional Engineers and Land Surveyors.
6. If required by FEMA, you must provide this office with a certified copy of all final plans or as-built drawings. Engineering data must be submitted to FEMA for their map amendment process, so that the Federal Insurance Rate Map (FIRM) can be changed.
7. If the permit applicant is a corporation, partnership or other legal entity other than a natural person, state the name of one or more natural persons who will be responsible to Commissioners Court to see that all provisions of the building permit will be faithfully complied with.

I hereby file this application for the construction in a designated floodplain, and if the permit applied for is granted, acknowledge myself to be bound to Commissioners Court of Smith County, Texas to see that all provisions of the permit are faithfully performed.

<table style="width: 100%; border: none;"> <tr> <td style="width: 80%; border: none;">Acknowledgment of conditions by permittee</td> <td style="width: 20%; border: none; text-align: right;">Date</td> </tr> </table>	Acknowledgment of conditions by permittee	Date
Acknowledgment of conditions by permittee	Date	

<table style="width: 100%; border: none;"> <tr> <td style="width: 80%; border: none;">Flood Plain Administrator</td> <td style="width: 20%; border: none; text-align: right;">Date</td> </tr> </table>	Flood Plain Administrator	Date
Flood Plain Administrator	Date	

## Appendix 7

### LOCAL GOVERNMENT CODE CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

(See attached annotated version of applicable statutes, which are incorporated herein as if copied in full and adopted as part of the Smith County Subdivision Regulations)

LOCAL GOVERNMENT CODE  
TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND  
RELATED ACTIVITIES  
SUBTITLE B. COUNTY REGULATORY AUTHORITY  
CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS  
SUBCHAPTER A. SUBDIVISION PLATTING REQUIREMENTS IN GENERAL

*Tex. Local Gov't Code § 232.001 (2007)*

**§ 232.001. Plat Required**

(a) The owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out:

(1) a subdivision of the tract, including an addition;

(2) lots; or

(3) streets, alleys, squares, parks, or other parts of the tract intended 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-1) A division of a tract under Subsection (a) includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

(b) To be recorded, the plat must:

(1) describe the subdivision by metes and bounds;

(2) locate the subdivision with respect to an original corner of the original survey of which it is a part; and

(3) state the dimensions of the subdivision and of each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.

(c) 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.

(d) The plat must be filed and recorded with the county clerk of the county in which the tract is located.

(e) The plat is subject to the filing and recording provisions of *Section 12.002, Property Code*.

(f) Repealed by Acts 1995, 74th Leg., ch. 979, § 29, eff. June 16, 1995.

**§ 232.0013. Chapter-Wide Provision Relating to Regulation of Plats and Subdivisions in Extraterritorial Jurisdiction.**

The authority of a county under this chapter relating to the regulation of plats or subdivisions in the extraterritorial jurisdiction of a municipality is subject to any applicable limitation prescribed by an agreement under Section 242.001 or by Section 242.002.

**§ 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) Except as provided by Section 232.0013, this subchapter does not apply to a subdivision of land to which Subchapter B [1] 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 lay out 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 lay out a part of the tract described by Section 232.001(a)(3) 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, as determined under Chapter 573, Government Code. If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this subchapter apply.

(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 lay out 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 lay out 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 lay out 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 lay out 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.

### **§ 232.002. Approval by County Required**

(a) The commissioners court of the county in which the land is located must approve, by an order entered in the minutes of the court, a plat required by Section 232.001. The commissioners court may refuse to approve a plat if it does not meet the requirements prescribed by or under this chapter or if any bond required under this chapter is not filed with the county.

(b) The commissioners court may not approve a plat unless the plat and other documents have been prepared as required by Section 232.0035, [1] if applicable.

(c) If no portion of the land subdivided under a plat approved under this section is sold or transferred before January 1 of the 51st year after the year in which the plat was approved, the approval of the plat expires, and the owner must resubmit a plat of the subdivision for approval. A plat resubmitted for approval under this subsection is subject to the requirements prescribed by this chapter at the time the plat is resubmitted.

#### **§ 232.0021. Plat Application Fee**

(a) The commissioners court may impose an application fee to cover the cost of the county's review of a subdivision plat and inspection of street, road, and drainage improvements described by the plat.

(b) The fee may vary based on the number of proposed lots in the subdivision, the acreage described by the plat, the type or extent of proposed street and drainage improvements, or any other reasonable criteria as determined by the commissioners court.

(c) The owner of the tract to be subdivided must pay the fee at the time directed by the county before the county conducts a review of the plat.

(d) The fee is subject to refund under Section 232.0025(i).

#### **§ 232.0025. Timely Approval of Plats**

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

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

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

(d) Except as provided by Subsection (f), the commissioners court or the court's designee shall take final action on a plat application, including the resolution of all appeals, not later than the 60th day after the date a completed plat application is received by the commissioners court or the court's designee.

(e) If the commissioners court or the court's designee disapproves a plat application, the applicant shall be given a complete list of the reasons for the disapproval.

(f) The 60-day period under Subsection (d):

(1) may be extended for a reasonable period, if agreed to in writing by the applicant and approved by the commissioners court or the court's designee;

(2) may be extended 60 additional days if Chapter 2007, Government Code, requires the county to perform a takings impact assessment in connection with a plat application; and

(3) applies only to a decision wholly within the control of the commissioners court or the court's designee.

(g) The commissioners court or the court's designee shall make the determination under Subsection (f)(2) of whether the 60-day period will be extended not later than the 20th day after the date a completed plat application is received by the commissioners court or the court's designee.

(h) The commissioners court or the court's designee may not compel an applicant to waive the time limits contained in this section.

(i) If the commissioners court or the court's designee fails to take final action on the plat as required by Subsection (d):

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

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

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

### **§ 232.003. Subdivision Requirements**

By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of 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;

(7) require that the owner of the tract to be subdivided execute a good and sufficient bond in the manner provided by Section 232.004;

(8) adopt reasonable specifications that provide for drainage in the subdivision to:

(A) efficiently manage the flow of stormwater runoff in the subdivision; and

(B) coordinate subdivision drainage with the general storm drainage pattern for the area; and

(9) require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.

#### **§ 232.0031. Standard for Roads in Subdivision**

A county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of streets or roads with a similar type and amount of traffic.

#### **§ 232.0032. Additional Requirements: Use of Groundwater**

(a) If a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, the commissioners court of a county by order may require the plat application to have attached to it a statement that:

(1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and

(2) certifies that adequate groundwater is available for the subdivision.

(b) The Texas Commission on Environmental Quality by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

(c) The Texas Commission on Environmental Quality, in consultation with the Texas Water Development Board, by rule shall require a person who submits a plat under Subsection (a) to transmit to the Texas Water Development Board and any groundwater conservation district that includes in the district's boundaries any part of the subdivision information that would be useful in:

- (1) performing groundwater conservation district activities;
- (2) conducting regional water planning;
- (3) maintaining the state's groundwater database; or
- (4) conducting studies for the state related to groundwater.

**§ 232.0033. Additional Requirements: Future Transportation Corridors**

(a) This section applies to each county in the state. The requirements provided by this section are in addition to the other requirements of this chapter.

(b) If all or part of a subdivision for which a plat is required under this chapter is located within a future transportation corridor identified in an agreement under *Section 201.619, Transportation Code*:

- (1) the commissioners court of a county in which the land is located:

(A) may refuse to approve the plat for recordation unless the plat states that the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

(B) may refuse to approve the plat for recordation if all or part of the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor; and

- (2) each purchase contract or lease between the subdivider and a purchaser or lessee of land in the subdivision must contain a conspicuous statement that the land is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to the future transportation corridor.

**§§ 232.0035, 232.0036. Repealed by Acts 1995, 74th Leg., ch. 979, § 29, eff. June 16, 1995**

**§ 232.004. Bond Requirements**

If the commissioners court requires the owner of the tract to execute a bond, the owner must do so before subdividing the tract unless an alternative financial guarantee is provided under Section 232.0045. The bond must:

- (1) be payable to the county judge of the county in which the subdivision will be located or to the judge's successors in office;
- (2) be in an amount determined by the commissioners court to be adequate to ensure proper construction of the roads and streets in and drainage requirements for the subdivision, but not to exceed the estimated cost of construction of the roads, streets, and drainage requirements;

- (3) be executed with sureties as may be approved by the court;
- (4) 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
- (5) be conditioned that the roads and streets and the drainage requirements for the subdivision will be constructed:
  - (A) in accordance with the specifications adopted by the court; and
  - (B) within a reasonable time set by the court.

**§ 232.0045. Financial Guarantee in Lieu of Bond**

- (a) 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.
  - (b) If a letter of credit is used, it must:
    - (1) list as the sole beneficiary the county judge of the county in which the subdivision is located; and
    - (2) be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets in the subdivision:
      - (A) in accordance with the specifications adopted by the commissioners court; and
      - (B) within a reasonable time set by the court.

**§§ 232.0046, 232.0047. Repealed by Acts 1995, 74th Leg., ch. 979, § 29, eff. June 16, 1995**

**§ 232.0048. Conflict of Interest; Penalty**

- (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.

**§§ 232.0049. Repealed by Acts 1995, 74th Leg., ch. 979, § 29, eff. June 16, 1995**

**§ 232.005. Enforcement in General; Penalty**

(a) At the request of the commissioners court, the county attorney or other prosecuting attorney for the county 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 a preceding section of this chapter; 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 a preceding section of this chapter.

(b) A person commits an offense if the person knowingly or intentionally violates a requirement established by, or adopted by the commissioners court under a preceding section of this chapter. 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.

(c) A requirement that was established by or adopted under Chapter 436, Acts of the 55th Legislature, Regular Session, 1957 (Article 6626a, Vernon's Texas Civil Statutes), [1] or Chapter 151, Acts of the 52nd Legislature, Regular Session, 1951 (Article 2372k, Vernon's Texas Civil Statutes), [2] before September 1, 1983, and that, after that date, continues to apply to a subdivision of land is enforceable under Subsection (a). A knowing or intentional violation of the requirement is an offense under Subsection (b).

[1] Repealed; see, now, Tex. *Local Government Code*, §§ 232.001 to 232.005.

[2] Repealed; see, now, Tex. *Local Government Code*, §§ 232.001 to 232.007.

**§ 232.007. Manufactured Home Rental Communities**

*See Appendix 8.*

**§ 232.008. Cancellation of Subdivision**

*See Appendix 9.*

**§ 232.0083. Cancellation of Certain Subdivision Plats if Existing Plat Obsolete**

(a) This section applies only to a subdivision for which:

- (1) a plat has been filed for 75 years or more;
- (2) the most recent plat describes at least a portion of the property as acreage tracts;
- (3) a previous plat described at least a portion of the property as lots and blocks; and
- (4) the county tax assessor-collector lists the property in the subdivision on the tax rolls based on the description in the previous plat and assesses taxes on the basis of that description.

(b) A person owning real property in the subdivision may apply to the commissioners court of the county in which the property is located for permission to cancel an existing subdivision plat in whole or part and to reestablish the property using lots and blocks descriptions that, to the extent practicable, are consistent with the previous subdivision plat.

(c) After notice and hearing, the commissioners court may order the cancellation of the existing subdivision plat and the reestablishment of the property in accordance with the application submitted under Subsection (b) if the court finds that:

- (1) the cancellation and reestablishment does not interfere with the established rights of:
  - (A) any owner of a part of the subdivision; or
  - (B) a utility company with a right to use a public easement in the subdivision; or
- (2) each owner or utility whose rights may be interfered with has agreed to the cancellation and reestablishment.

(d) The commissioners court shall publish notice of an application for the cancellation and reestablishment. The notice must be published at least three weeks before the date on which action is taken on the application and must direct any person who is interested in the property and who wishes to protest the proposed cancellation and reestablishment to appear at the time specified in the notice. The notice must be published in a newspaper that has general circulation in the county.

(e) If the commissioners court authorizes the cancellation and reestablishment, the court by order shall authorize the person making the application under this section to record an instrument showing the cancellation and reestablishment. The court shall enter the order in its minutes.

### **§ 232.0085. Cancellation of Certain Subdivisions if Land Remains Undeveloped**

(a) This section applies only to real property located:

(1) outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42; and

(2) in an affected county, as defined by *Section 16.341, Water Code*, that has adopted the model rules developed under *Section 16.343, Water Code*, and is located along an international border.

(b) The commissioners court of a county may cancel, after notice and a hearing as required by this section, a subdivision for which the plat was filed and approved before September 1, 1989, if:

(1) the development of or the making of improvements in the subdivision was not begun before the effective date of this section; and

(2) the commissioners court by resolution has made a finding that the land in question is likely to be developed as a colonia.

(c) The commissioners court must publish notice of a proposal to cancel a subdivision under this section and the time and place of the required hearing in a newspaper of general circulation in the county for at least 21 days immediately before the date a cancellation order is adopted under this section. The county tax assessor-collector shall, not later than the 14th day before the date of the hearing, deposit with the United States Postal Service a similar notice addressed to each owner of land in the subdivision, as determined by the most recent county tax roll.

(d) At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the court shall adopt an order on whether to cancel the subdivision. The commissioners court may adopt an order canceling a subdivision if the court determines the cancellation is in the best interest of the public. The court may not adopt an order canceling a subdivision if:

(1) the cancellation interferes with the established rights of a person who is a nondeveloper owner and owns any part of the subdivision, unless the person agrees to the cancellation; or

(2) the owner of the entire subdivision is able to show that:

(A) the owner of the subdivision is able to comply with the minimum state standards and model political subdivision rules developed under *Section 16.343, Water Code*, including any bonding requirements; or

(B) the land was developed or improved within the period described by Subsection (b).

(e) The commissioners court shall file the cancellation order for recording in the deed records of the county. After the cancellation order is filed and recorded, the property shall be treated as if it had never been subdivided, and the county chief appraiser shall assess the property accordingly. Any liens against the property shall remain against the property as it was previously subdivided.

(f) In this section:

(1) "Development" means the making, installing, or constructing of buildings and improvements.

(2) "Improvements" means water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and other utility facilities. The term does not include roadway facilities.

### **§ 232.009. Revision of Plat**

(a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities with a population of 1.5 million or more, as determined under Chapter 42.

(b) A person who owns real property in a tract that has been subdivided and that is subject to the subdivision controls of the county in which the property is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat that applies to the property and that is filed for record with the county clerk.

(c) After the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. Except as provided by Subsection (f), if all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(d) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has agreed to the revision.

(e) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

(f) The commissioners court is not required to give notice by mail under Subsection (c) if the plat revision only combines existing tracts.

### **§ 232.010. Exception to Plat Requirement: County Determination**

A commissioners court of the county may allow conveyance of portions of one or more previously platted lots by metes and bounds description without revising the plat.

### **§ 232.011. Amending Plat**

(a) The commissioners court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed for one or more of the following purposes:

- (1) to correct an error in a course or distance shown on the preceding plat;
- (2) to add a course or distance that was omitted on the preceding plat;
- (3) to correct an error in a real property description shown on the preceding plat;

(4) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(5) to correct any other type of scrivener or clerical error or omission of the previously approved plat, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or

(6) to correct an error in courses and distances of lot lines between two adjacent lots if:

(A) both lot owners join in the application for amending the plat;

(B) neither lot is abolished;

(C) the amendment does not attempt to remove recorded covenants or restrictions; and

(D) the amendment does not have a material adverse effect on the property rights of the other owners of the property that is the subject of the plat.

(b) The amending plat controls over the preceding plat without the vacation, revision, or cancellation of the preceding plat.

(c) Notice, a hearing, and the approval of other lot owners are not required for the filing, recording, or approval of an amending plat.

## Appendix 8

### LOCAL GOVERNMENT CODE CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

#### **§ 232.007 Manufactured Home Rental Communities**

(See attached version of applicable statute, which are incorporated herein as if copied in full and adopted as part of the Smith County Subdivision Regulations)

## **APPENDIX 8: INFRASTRUCTURE REQUIREMENTS FOR MANUFACTURED HOME RENTAL COMMUNITIES**

### **1. Definitions**

- (a) **“Manufactured Home”** means a structure falling within the definition of manufactured housing in Article 5221f, Texas Civil Statutes Annotated.
- (b) **“Manufactured Home 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 rental or lease, for the installation of manufactured homes for use and occupancy as residences.
- (c) **“Manufactured Home Rental Community”** means a Manufactured Home Community in which two or more spaces or lots are rented, leased, or offered for rent or lease for a term of less than 60 months without a purchase option.

### **2. Manufactured Home Rental Community**

The owner of land located in Smith County outside the limits of a municipality who intends to use the land for a Manufactured Home Rental Community must have an infrastructure development plan prepared that complies with in the minimum infrastructure standards that are set out below in Section III.

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

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

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

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

When the inspector determines that the infrastructure complies with the plan, the County Engineer shall issue a Certificate of Compliance not later than the fifth business day after the day the final inspection is completed.

A utility may not provide utility services, including water, sewer, gas, and electric services, to a Manufactured Home Rental Community or to a manufactured home in the community unless the owner provides the utility with a copy of the Certificate of Compliance.

### **3. Infrastructure Requirements**

The infrastructure development plan for a Manufactured Home Rental Community must include each of the following:

- (A) A survey identifying the proposed community's boundaries and any significant features of the community, including the proposed location of lots or spaces, utility easements, and dedication of rights-of-way. The survey may also contain features to help provide the additional information required by this Order.
- (B) Reasonably specified plans to provide adequate drainage in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100 year flood plain.
- (C) Reasonably specified plans to provide an adequate public or community water supply, including specifying the location of supply lines, in accordance with Subchapter C, Chapter 341, Health and Safety Code. If water is to be provided by a utility, a certification by the utility that water is available for each of the planned spaces or lots must be attached to the plan.
- (D) Either
  - (1) Reasonably specified plans to provide access to sanitary sewer lines, including specifying the location of sanitary sewer lines. If sewage treatment is to be provided by a utility, a certification by the utility that service for each of the planned spaces or lots is available by the relevant government agency that is to license or inspect the treatment facilities must be attached; or
  - (2) Reasonably specified plans for providing on-sites sewage facilities in accordance with Chapter 366, Health and Safety Code. Approval by the Smith County Septic Tank Enforcement Official must be attached to the plan.
- (e) Reasonably specified plans for streets or roads in the Manufactured Home Rental Community to provide ingress and egress for fire and emergency vehicles.

- (1) The Commissioners Court finds that it is reasonably necessary that streets in these communities should be build to the same standards (but to no more stringent standard) than the requirements adopted by the Court for subdivisions.
  - (2) The road design and construction standard contained in the Smith County Subdivision Regulations, as amended from time to time, are therefore incorporated by reference into this Order as fully and completely as if set our verbatim herein. The street or road specifications in the infrastructure development plan must comply with those standards to the maximum degree practicable.
  - (3) Only the Smith County Commissioners Court may grant a variance when strict application of these standards would work an unusual hardship.
- (f) The road specifications must include adequate provision for roadway maintenance to guarantee future ingress and egress by fire and emergency vehicles. It shall provide adequate financing mechanism for private maintenance. The plan must contain a covenant that every future lease or rental agreement will inform the tenants that the County will never maintain any road or street in the community under any circumstances.
- (g) Issuance of a certificate of Compliance under this Order does not indicate compliance with any city, state or federal requirements.

#### **4. Penalties**

- (A) Violation of this Order may result in the denial of utility service.
- (B) The requirements of this Order have been established by and adopted by the Smith County Commissioners Court under Chapter 232 of the Texas Local Government Code and all the civil and criminal penalties applicable under that chapter shall apply to violations of this order.

## Appendix 9

### LOCAL GOVERNMENT CODE CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

#### **§ 232.008 Cancellation of Subdivision**

(See attached version of applicable statute, which are incorporated herein as if copied in full and adopted as part of the Smith County Subdivision Regulations)

## Appendix 9

### CANCELLATION OF SUBDIVISION

#### Sec. 232.008. Cancellation of Subdivision

- (a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42.
- (b) A person owning real property in this state that has been subdivided into lots and blocks or into small subdivisions may apply to the commissioners court of the county in which the property is located for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the commissioners court by order shall authorize the owner of the subdivision to file an instrument canceling the subdivision in whole or in part. The instrument must be for the subdivision or the part of it to be canceled. The court shall enter the order in its minutes. After the cancellation instrument is filed and recorded in the deed official public records of the county, the county tax assessor-collector shall assess the property as if it had never been subdivided.
- (c) The Commissioners Court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the county for at least three weeks before the date on which action is taken on the application. The court shall take action on an application at a regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the specified in the notice.
- (d) If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this section, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided. For the purpose of assessing the tract for a preceding year, the county tax assessor-collector shall back assess the tract on an acreage basis.
- (e) On application for cancellation of a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of 75 percent of the property included in the subdivision, phase, or identifiable part, the commissioners court by order shall authorize the cancellation in the manner and after notice and a hearing as provided by Subsections (b) and (c). However, if the owners of at least 10 percent of the property

affected by the proposed cancellation file written objections to the cancellation with the court, the grant of an order of cancellation is at discretion of the court.

- (f) To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:
  - (1) Abuts directly on the part of the roadway or easement to be canceled or closed; or
  - (2) Is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to:
    - (A) The nearest remaining public highway, county road, or access road to the public highway or county road; or
    - (B) Any uncanceled common amenity of the subdivision.
- (g) A person who appears before the Commissioners Court to protest the cancellation of all or part of a subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the canceled subdivision or part of the subdivision. The person must bring the action within one year after the date of the entry of the Commissioners Court's order granting the cancellation.
- (h) The Commissioners Court may deny a cancellation under this section if the Commissioners Court determines the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development.

Appendix 10

LOCAL GOVERNMENT CODE  
CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

**§ 232.000015 Exceptions to Plat Requirement**

(See attached version of applicable statute, which are incorporated herein as if copied in full and adopted as part of the Smith County Subdivision Regulations)

## Appendix 10

### EXCEPTIONS TO PLAT REQUIREMENT

#### § 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 the subchapter.
- (b) This subchapter does not apply to a subdivision of land to which Subchapter B<sup>1</sup> 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 lay out a part of the tract described by Section (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 lay out a part of the tract described by Section (a)(3) 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, as determined under Chapter 573 Government Code. If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this subchapter apply.
- (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 lay out 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 lay out 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 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 or more parts to have a plat of the subdivision prepared if:

- (1) The owner does not lay out a part of the tract described by Section 32.001(a)(3);and
- (2) One new part is to be retained by the owner, and the other new part is to be transferred 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 lay out 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.



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

Adjacent Road: \_\_\_\_\_

Developer: \_\_\_\_\_ Phone: \_\_\_\_\_

email: \_\_\_\_\_ Fax: \_\_\_\_\_

Surveyor: \_\_\_\_\_ Phone: \_\_\_\_\_

email: \_\_\_\_\_ Fax: \_\_\_\_\_

Roadway Length: \_\_\_\_\_ ft. (centerline)

Item		<i>Date and Initial when received</i>		
		Resub/Lot Line Adjustment	No Roads	With Roads
<b>Prior to Court Submission</b>	Preliminary Plat (2 copies)	<i>Not Required</i>		
	Preliminary Plat Approved	<i>Not Required</i>		
	Final Plat (mylar & 3 prints)			
	Plat Fee	\$25	\$100	\$250
	Construction Bond (\$20 /ft.)	<i>Not Required</i>	<i>Not Required</i>	
	Testing Fee (\$1.50/ft with Curb & Gutter, \$1/ft without)	<i>Not Required</i>	<i>Not Required</i>	
	911 Clearance Letter			
	Designated Rep. (Huggins) Clearance Letter	<i>See notes below</i>		
	Tax Certificate			
	Plans and Specifications (2 copies)	<i>Not Required</i>	<i>Not Required</i>	
	TCEQ Permit for Dam (if lake or pond present)			
	Flood Plain Development Permit & Fee (if required)	\$100	\$100	\$100
<b>At Completion of Construction</b>	Final Inspection	<i>Not Required</i>	<i>Not Required</i>	
<b>R/W Accepted as County Road by Commissioners Court</b>	Maintenance Bond (\$30/ft.)	<i>Not Required</i>	<i>Not Required</i>	
	County Rd Number	<i>Not Required</i>	<i>Not Required</i>	

Notes: Increase lot(s) – Huggins letter “NOT” required  
 Decrease lot(s) – Huggins letter “IS” required

## PRELIMINARY CHECK LIST

The following checklist is for the use of a Developer in ascertaining initial compliance with the Smith County Subdivision Rules and assisting the Commissioners Court in processing an application under the Rules. **This list does not supercede any portion of the Subdivision Regulation. Each applicant must comply with the Subdivision Regulation as amended.** This completed list should be presented with each preliminary plat. Each blank should be filled with a "yes" or "no" or "n/a" response.

- \_\_\_\_\_ Two copies of the preliminary plat submitted (must include existing topographic contours)?
- \_\_\_\_\_ Copy of final plat submitted to 911 network (903 566 8911) for clearance?
- \_\_\_\_\_ Environmental Report submitted to Rosedale Environmental Services (903-509-3400) for clearance?
- \_\_\_\_\_ Tax Certificates (from County Tax Assessor's Office) provided?
- \_\_\_\_\_ Any part of the proposed subdivision in an extraterritorial jurisdiction of a city?
- \_\_\_\_\_ Any lakes or ponds not contained within one lot or more than 10 surface acres?
- \_\_\_\_\_ Requesting any variances to the Smith County Subdivision Regulation? If so, attach justification.
- \_\_\_\_\_ Does any portion of this subdivision include 100 year floodplain (Zone A)? If so, complete a Flood Plain Development Permit Application (Appendix 6) for any construction or earthwork in the flood plain. Attach the appropriate FEMA FIRM map (you may need to load the FEMA map viewer), check this link: [http://map1.msc.fema.gov/idms/IntraList.cgi?displ=wsp/item\\_1662152.txt](http://map1.msc.fema.gov/idms/IntraList.cgi?displ=wsp/item_1662152.txt) and any required flood study.
- \_\_\_\_\_ Will county maintenance be sought for any dedicated right of way or easements?
- \_\_\_\_\_ If the right of way and/or easements are to privately maintained, will title to them be transferred to a corporation or other entity with the responsibility to maintain them?
- \_\_\_\_\_ Will a gate or other device to control access barricade the entrances to the subdivision?



# Application for County Road Maintenance Through Balloting & Cost Assessment

To be completed by property owners requesting county road maintenance for roads and right of ways in substandard or illegal subdivisions and developments

To:

**Smith County Road & Bridge Department**  
P.O. Box 990; Tyler, Texas 75710; (903)-590-4801

From:

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

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

Phone: \_\_\_\_\_

Name of Development: \_\_\_\_\_

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

Name of Developer (if known): \_\_\_\_\_

Date 2nd lot sold: (by deed or contract, if known): \_\_\_\_\_

Number of homes in Development: \_\_\_\_\_

Location of Development (directions): \_\_\_\_\_

Plat filed with Commissioners Court? \_\_\_\_\_ If so, when (year): \_\_\_\_\_

Plat filed with City? \_\_\_\_\_ If so, when (year): \_\_\_\_\_ What City? \_\_\_\_\_

Dedicated right of way? \_\_\_\_\_ If so, what width? \_\_\_\_\_ ft. Recorded? \_\_\_\_\_

If less than 60 ft wide, will owners dedicate a total of 60 ft.?

Road(s) built to County specs? \_\_\_\_\_ Road(s) built to City specs? \_\_\_\_\_

Distance to closest residence from the center of the road: \_\_\_\_\_ ft.

Attach any drawings/maps you may have of the development.

**Notes:**

1. Acceptance of roads and right of ways into the County Road System does not obligate Smith County to upgrade road surfaces, routes, profiles, or curvature other than that required for normal maintenance. *The Smith County Commissioners Court reserves the right to accept roads in part or in whole, or not at all.*
2. Road construction required to meet minimum County Subdivision Regulations shall be at the applicant(s) expense.
3. Dedication of a right of way will require an amended plat be filed.
4. Any surveying required of dedicated right of ways will done at the applicant(s) expense.

Any exception to the above must be approved by the Commissioners Court.



## Application for County Road Maintenance

To be completed by property owners requesting county road maintenance for roads and right of ways in substandard or illegal subdivisions and developments  
(Only recommended for roads with 25 or fewer property owners)

### County Improvements Of Subdivision Roads

(This outline is based on Chapter 253 of the Texas Transportation Code)

**Step 1:** The Commissioners Court has to *determine* that improvements to a road in a subdivision is *necessary for the public health safety and welfare* of the residents of the county.

**Step 2:** Next, the Commissioners Court may *propose* that the improvements are made, and that the costs are assessed to either: the record owners of the subdivision; or the record owners of a part of the subdivision.

**Step 3:** Next, the Commissioners Court must post *notice* of a public hearing and of the proposed improvements and assessments.

**Step 4:** The Commissioners Court must *hold the public hearing*.

**Step 5:** Next, the Commissioners Court must *mail a ballot* to either: the record owners of the subdivision to be assessed; or the record owners of a part of the subdivision to be assessed.

**Step 6:** Next, the *County Clerk shall tally the ballots*, if a majority of the returned ballots are in favor of the improvements and the assessment of costs, then the Commissioners Court shall order the improvements to the road(s) and the assessment of costs.

**Step 7:** The Commissioners Court may provide the *time, terms and conditions of payment and default of an assessment*.

**Step 8:** An *assessment is secured by a lien* against the real property of the assessed property owner.

**Step 9:** The *County shall maintain the road* according to county road standards. Based on Smith County Subdivision Regulation, right of way width shall be at least 60 feet (30 feet either side of centerline).



# Application for County Road Maintenance Through Implied Dedication

To be completed by developer or property owners requesting county road maintenance for roads and right of ways in subdivision developments

To:

**Smith County Road & Bridge Department**  
P.O. Box 990; Tyler, Texas 75710; (903)-590-4801

Name:

Address:

From:

Phone:

Name of Development:

Date:

Name of Developer (if known): \_\_\_\_\_

Date 2nd lot sold: (by deed or contract, if known): \_\_\_\_\_

Number of homes in Development: \_\_\_\_\_

Location of Development (directions): \_\_\_\_\_

Plat filed with Commissioners Court? \_\_\_\_\_ If so, when (year): \_\_\_\_\_

Plat filed with City? \_\_\_\_\_ If so, when (year): \_\_\_\_\_ What City? \_\_\_\_\_

Dedicated right of way? \_\_\_\_\_ If so, what width? \_\_\_\_\_ ft. Recorded? \_\_\_\_\_

If less than 60 ft wide, will owners dedicate a total of 60 ft.?

Road(s) built to County specs? \_\_\_\_\_ Road(s) built to City specs? \_\_\_\_\_

Distance to closest residence from the center of the road: \_\_\_\_\_ ft.

Attach any drawings/maps you may have of the development.

**Notes:**

1. Acceptance of roads and right of ways into the County Road System does not obligate Smith County to upgrade road surfaces, routes, profiles, or curvature other than that required for normal maintenance. *The acceptance of right-of-way and roads in part or in whole must comply with the Smith County Subdivision Regulations, as amended.*
2. Road construction required to meet minimum County Subdivision Regulations shall be at the applicant(s) expense.
3. Dedication of a right-of-way will generally require an amended plat be filed.
4. Any surveying required of dedicated right-of-ways will done at the applicant(s) expense.

Any exception to the above must be approved by the Commissioners Court.



# Application for County Road Maintenance Through Implied Dedication<sup>1</sup>

To be completed by property owners requesting county road  
maintenance for roads and right of ways in  
subdivision developments

(Whether in or out of any municipal extra-territorial jurisdiction)

## County Improvements Of Subdivision Roads

(This outline is based on Implied Dedication pursuant to the common law)

**Step 1:** Road(s) must be laid out and established according to law (Tex. Transp. Code § 251.002), including initial regulatory traffic signage (Texas Manual on Uniform Traffic Control Devices for Streets and Highways). Location of the road(s) must be in the unincorporated areas of the county.

**Step 2:** File and process application with Road & Bridge Department by obtaining letter of recommendation for approval into county maintenance system (may overlap step 3). This includes an inspection by Road & Bridge, which may determine that an amended plat or survey is necessary and/or list of improvements prior to granting the recommendation. Upon a determination that a *new* subdivision project has met the county's Subdivision Regulations, the Road & Bridge Department will issue a letter of recommendation for approval into the county maintenance system, which must be brought before the Commissioners Court under step 5.

**Step 3:** Designate road(s) as "public" either in a plat or through "public use" and a Commissioners Court finding by resolution that the road is "public" (the finding that a road is "public" does not itself place the road into the maintenance inventory but is a required step).<sup>2</sup> This step may overlap with step 5.

**Step 4:** Developer or property owners must obtain a two (2) year maintenance bond made payable to the county. Effective date for existing subdivisions must be on or before presentation to Commissioners Court, while the effective date for new subdivision projects will be the date of the recommendation letter from the Road & Bridge Department recommending approval.

**Step 5:** Road & Bridge submits agenda request for Commissioners Court. Developer and/or all property owners must attend court or sign necessary affidavit form to testify or attest to applicable facts, including the following: (a) that road is in "public use"; (b) "impliedly dedicated" or "offered" to the county; and (c) there is a need for county maintenance due to "public health, safety, and welfare" of county residents. The burden is on those offering the dedicated property to show a compelling reason why the road(s) cannot be privately maintained. If the Court so finds, a resolution will be entered into the minutes accepting the dedicated property pursuant to the terms and conditions established by the Court. **Attached affidavit form must be executed and submitted by applicant(s).**

**Step 6:** The *County shall maintain the road(s)* according to county road standards.

<sup>1</sup> With a population more than 50,000, Smith County is not subject to the limitations on smaller counties of Chapter 281 of the Transportation Code, which allows only express dedications. Implied dedications are allowed where there is "public road," there is an acceptance by public usage, and the Commissioners Court passes a resolution making certain findings. **See Op. Tex. Att'y Gen. No. JC-0503 (2002).**

<sup>2</sup> Once deemed "public," a road is generally eligible for county maintenance. **See Tex. Transp. Code § 251.003.** The road cannot be completely surrounded by private roads.

